Supreme Court, U.S.
FILED
JAN 25 2001
OFFICE OF THE CLERK

No. 00-492

In The

Supreme Court of the United States

STATE OF ALABAMA,

Petitioner,

v.

MICHAEL HERMAN BOZEMAN,

Respondent.

On Writ Of Certiorari
To The Alabama Supreme Court

JOINT APPENDIX

BILL PRYOR
Alabama Attorney General

SANDRA J. STEWART*
Alabama Assistant Attorney General

Office of the Attorney General
Alabama State House
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Montgomery, Alabama 36130
(334) 242-7300

Counsel for Petitioner State of Alabama

MARK JOHN CHRISTENSEN*
One East Court Square
P.O. Box 507
Andalusia, Alabama 36420
(334) 222-7118

Counsel for Respondent

Counsel of Record

Petition For Certiorari Filed September 28, 2000
Certiorari Granted December 11, 2000

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

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RELEVANT DOCKET ENTRIES

In the Covington County Circuit Court:

1.	9/20/96	Indictment returned
2.	1/24/97	(1) Respondent's pro se motion to dismiss the indictment on the basis of violations of Article IV(e) and V(e) of the Interstate Agreement on Detainers filed; (2) Respondent appointed counsel; and, (3) Respondent arraigned
3.	2/21/97	Defendant's Motion To Dismiss filed
4.	2/25/97	Memorandum Brief In Support Of Defendant's Motion To Dismiss filed
5.	2/27/97	Trial began
6.	2/28/97	(1) Jury verdict returned, and (2) Order entered setting hearing on issues concerning the Interstate Agreement on Detainers raised by Respondent in his motions to dismiss
7.	3/12/97	Hearing on Respondent's motions to dismiss the indictment on the grounds that the Interstate Agreement on Detainers had been violated
8.	4/25/97	Renewal Of Defendant's Motion To Dismiss filed

9.	5/16/97	Order of Covington County Circuit Judge M. Ashley McKathan entered denying Respondent's motions to dismiss the indictments due to alleged violations of the Interstate Agreement on Detainers
10.	5/19/97	Respondent's Motion For Judgment Notwithstanding The Verdict Or In The Alternative For New Trial filed
11.	5/21/97	(1) Order entered denying Respondent's Motion For Judgment Notwithstanding The Verdict Or In The Alternative For New Trial, and (2) Notice of appeal to the Alabama Court of Criminal Appeals filed by Respondent

In the Alabama Court of Criminal Appeals

12.	5/8/98	Alabama Court of Criminal Appeals issued Memorandum Opinion affirming Respondent's convictions and sentences
13.	5/22/98	Application for rehearing filed in the Alabama Court of Criminal Appeals by Respondent
14.	6/19/98	Alabama Court of Criminal Appeals overruled application for rehearing

In the Alabama Supreme Court

15.	7/31/98	Petition for a writ of certiorari filed in Alabama Supreme Court by Respondent
16.	2/19/99	Alabama Supreme Court granted the petition for a writ of certiorari
17.	4/21/00	Alabama Supreme Court issued opinion reversing convictions, holding that a violation of the Interstate Agreement on Detainers required reversal
18.	5/5/00	Application for rehearing filed in the Alabama Supreme Court by Petitioner
19.	6/30/00	Application for rehearing overruled by Alabama Supreme Court

In the United States Supreme Court

20.	9/28/00	Petitioner filed petition for writ of certiorari in United States Supreme Court
21.	12/11/00	Petition for a writ of certiorari granted by United States Supreme Court

IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,	*	
PLAINTIFF,	*	
VS	*	CC-97-16
MICHAEL HERMAN BOZEMAN,	*	
DEFENDANT.	*	

GRAND JURY NO. 230-232

THE STATE OF ALABAMA, **CIRCUIT COURT**
Covington County

SHOOTING OR
DISCHARGIN[G] FIREARM
INTO OCCUPIED BUILDING,
ETC. CLASS B FELONY
SHOOTING OR DISCHARGING
FIREARM INTO UNOCCUPIED
VEHICLE, ETC.
CLASS C FELONY
SHOOTING OR DISCHARGING
FIREARM INTO UNOCCUPIED
BUILDING, ETC.
CLASS C FELONY

SID # 1139445
SEPTEMBER 1996 TERM

COUNT I

THE GRAND JURY OF COVINGTON COUNTY CHARGES THAT BEFORE THE FINDING OF THIS INDICTMENT, MICHAEL HERMAN BOZEMAN, A/K/A SONNY BOZEMAN, WHOSE NAME IS

UNKNOWN TO THE GRAND JURY OTHER THAN AS STATED, DID SHOOT OR DISCHARGE A FIREARM, EXPLOSIVE OR OTHER WEAPON WHICH DISCHARGES A DANGEROUS PROJECTILE, TO-WIT: PISTOL AND/OR RIFLE, INTO A DWELLING, TO-WIT: 2508 HIGHWAY 84 WEST, OPP, ALABAMA, WHILE SAID DWELLING WAS OCCUPIED BY MILTON WILLIAMS, IN VIOLATION OF TITLE 13A-11-61 OF THE CODE OF ALABAMA, 1975, AND AS LAST AMENDED, AGAINST THE PEACE AND DIGNITY OF THE STATE OF ALABAMA.

COUNT II

THE GRAND JURY OF COVINGTON COUNTY CHARGES THAT BEFORE THE FINDING OF THIS INDICTMENT, MICHAEL HERMAN BOZEMAN, A/K/A SONNY BOZEMAN, WHOSE NAME IS UNKNOWN TO THE GRAND JURY OTHER THAN AS STATED, DID SHOOT OR DISCHARGE A FIREARM, EXPLOSIVE OR OTHER WEAPON WHICH DISCHARGES A DANGEROUS PROJECTILE, TO-WIT: PISTOL AND/OR RIFLE, INTO AN UNOCCUPIED DWELLING, BUILDING, RAILROAD LOCOMOTIVE, RAILROAD CAR, AIRCRAFT, AUTOMOBILE, TRUCK OR WATERCRAFT, TO-WIT: CHEVROLET TRUCK BELONGING TO MILTON WILLIAMS, IN VIOLATION OF TITLE 13A-11-61 OF THE CODE OF ALABAMA, 1975, AND AS LAST AMENDED, AGAINST THE PEACE AND DIGNITY OF THE STATE OF ALABAMA.

COUNT III

THE GRAND JURY OF COVINGTON COUNTY CHARGES THAT BEFORE THE FINDING OF THIS INDICTMENT, MICHAEL HERMAN BOZEMAN, A/K/A SONNY BOZEMAN, WHOSE NAME IS UNKNOWN TO THE GRAND JURY OTHER THAN AS STATED, DID SHOOT OR DISCHARGE A FIREARM, EXPLOSIVE OR OTHER WEAPON WHICH DISCHARGES A DANGEROUS PROJECTILE, TO-WIT: PISTOL AND/OR RIFLE, INTO AN UNOCCUPIED DWELLING, BUILDING, RAILROAD LOCOMOTIVE, RAILROAD CAR, AIRCRAFT, AUTOMOBILE, TRUCK OR WATERCRAFT, TO-WIT: BUICK AUTOMOBILE, IN VIOLATION OF TITLE 13A-11-61 OF THE CODE OF ALABAMA, 1975, AND AS LAST AMENDED, AGAINST THE PEACE AND DIGNITY OF THE STATE OF ALABAMA.

COUNT IV

THE GRAND JURY OF COVINGTON COUNTY CHARGES THAT BEFORE THE FINDING OF THIS INDICTMENT, MICHAEL HERMAN BOZEMAN, A/K/A SONNY BOZEMAN, WHOSE NAME IS UNKNOWN TO THE GRAND JURY OTHER THAN AS STATED, DID SHOOT OR DISCHARGE A FIREARM, EXPLOSIVE OR OTHER WEAPON WHICH DISCHARGES A DANGEROUS PROJECTILE, TO-WIT: PISTOL AND/OR RIFLE, INTO A DWELLING AND/OR BUILDING, TO-WIT: 503 1/2 EAST PARK AVENUE, OPP, ALABAMA, WHILE SAID DWELLING AND/OR BUILDING, WAS OCCUPIED BY YVONNE BOZEMAN, IN VIOLATION OF TITLE 13A-11-61 OF THE CODE OF

ALABAMA, 1975, AND AS LAST AMENDED, AGAINST THE PEACE AND DIGNITY OF THE STATE OF ALABAMA.

COUNT V

THE GRAND JURY OF COVINGTON COUNTY CHARGES THAT BEFORE THE FINDING OF THIS INDICTMENT, MICHAEL HERMAN BOZEMAN, A/K/A SONNY BOZEMAN, WHOSE NAME IS UNKNOWN TO THE GRAND JURY OTHER THAN AS STATED, DID SHOOT OR DISCHARGE A FIREARM, EXPLOSIVE OR OTHER WEAPON WHICH DISCHARGES A DANGEROUS PROJECTILE, TO-WIT: A PISTOL AND/OR RIFLE, INTO AN UNOCCUPIED DWELLING AND/OR BUILDING, TO-WIT: 303 MONROE STREET, OPP, ALABAMA, IN VIOLATION OF TITLE 13A-11-61 OF THE CODE OF ALABAMA, 1975, AND AS LAST AMENDED, AGAINST THE PEACE AND DIGNITY OF THE STATE OF ALABAMA.

/s/ Euginia L. Loggins
District Attorney of the 22nd
Judicial Circuit

No. CC-97-16

THE STATE OF ALABAMA
Covington County

CIRCUIT COURT
SEPTEMBER Term, 1996

THE STATE

vs.

MICHAEL HERMAN BOZEMAN
A/K/A SONNY BOZEMAN

INDICTMENT

Charge SHOOTING OR DISCHARGING FIREARM INTO OCCUPIED BLDG. ETC.
SHOOTING OR DISCHARGING FIREARM INTO UNOCCUPIED VEHICLE, ETC.
SHOOTING OR DISCHARGING FIREARM INTO UNOCCUPIED BUILDING, ETC.

/s/ Euginia L. Loggins
Prosecutor

WITNESSES:

Grand Jury No. 230-232

A TRUE BILL

/s/ Angela Stokes
Foreman Grand Jury

Presented to the presiding Judge in open Court by the Foreman of the Grand Jury in the presence of 16 other Grand Jurors and filed by the order of Court this 20 day of September, 1996

/s/ Roger A. Powell
Clerk

Bail Fixed at $40,000

/s/ Jerry E. Stokes
Judge.

[In the Circuit Court of Covington County, Alabama]

WRIT OF ARREST – GRAND JURY INDICTMENT

STATE OF ALABAMA COVINGTON COUNTY
CIRCUIT COURT

AGENCY NUMBERS:
WARRANT NUMBER: GJ 96 000230.00
OTHER CASE NRB:

TO ANY LAWFUL OFFICER OF THE STATE OF ALABAMA:

YOU ARE HEREBY COMMANDED TO ARREST MICHAEL HERMAN BOZEMAN AND BRING HIM/HER BEFORE THE CIRCUIT COURT OF COVINGTON COUNTY TO ANSWER THE STATE OF ALABAMA ON A CHARGE(S) OF:

DISCHARGE GUN OCC BL CLASS:B TYPE:F
DISCHARGE GUN UNOCC CLASS:C TYPE:F
DISCHARGE GUN UNOCC CLASS:C TYPE:F

AND HAVE YOU THEN AND THERE THIS WRIT WITH YOUR RETURN THEREON.

YOU WILL RECEIVE UNTO YOUR CUSTODY AND DETAIN HIM/HER UNTIL THE _____ DAY OF _____ 19___, OR UNTIL LEGALLY DISCHARGED.

DATED THIS 20 DAY OF SEPTEMBER, 1996

BOND SET AT:
(1) $40,000.00 BOND TYPE: PROPERTY BOND

(2) _____

(3) _____

/s/ Roger A. Powell
JUDGE/CLERK/MAGISTRATE OF CIRCUIT COURT

CHARGES: DISCHARGE GUN OCC BL 13A-011-061
F FELONY

NAME: MICHAEL HERMAN BOZEMAN ALIAS:
ADDRESS: ROUTE 2 BOX 134A ALIAS:
ADDRESS:
CITY: OPP STATE: AL ZIP: 36467 0000

EMPLOYMENT:
DOB: 03/08/45 RACE: W

SEX: M HAIR:

EYE: HEIGHT: 0'0"

WEIGHT: 000 SID: 000000000

SSN: 420585121

EXECUTION

EXECUTED THE WITHIN WARRANT BY ARRESTING THE DEFENDANT AND

(✓) PLACING DEFENDANT IN THE COVINGTON COUNTY JAIL

( ) RELEASING DEFENDANT ON APPEARANCE BOND

THIS 24 DAY OF JANUARY 1997

SHERIFF

/s/ Elliot King
BY

OPERATOR: DES LAST UPDATE: 092096

[In the Circuit Court of Covington County, Alabama]

AFFIDAVIT of SUBSTANTIAL HARDSHIP and ORDER

State of Alabama
Unified Judicial System
Form C-10
Page 1 of 2 Rev. 2/95

Case Number
Sept. 1996
G.J. #230-232

IN THE Circuit
(Circuit, District, or Municipal)

COURT OF Covington ALABAMA
(Name of County or Municipality)

STYLE OF CASE:
State of Alabama (Plaintiff(s)) v. Michael H. Bozeman (Defendant(s))

TYPE OF PROCEEDING: _____

CHARGE(s) (if applicable): _____

[ ] **CIVIL CASE** – I, because of substantial hardship, am unable to pay the docket fee and service fees in this case. I request that payment of these fees be waived initially and taxed as costs at the conclusion of the case.

[ ] **CIVIL CASE** – (such as paternity, support, termination of parental rights, dependency) – I am financially unable to hire an attorney and I request that the Court appoint one for me.

[X] **CRIMINAL CASE** – I am financially unable to hire an attorney and request that the Court appoint one for me.

[ ] **DELINQUENCY/NEED OF SUPERVISION** – I am financially unable to hire an attorney and request that the Court appoint one for my child/me.

SECTION I. AFFIDAVIT

1. IDENTIFICATION

Full Name Michael H. Bozeman
Date of birth 3-8-45

Spouse's Full Name (*if married*) None

Complete Home Address Rt 2 Box 134A Opp, Al.

Number of People Living in Household Incarcerated

Home Telephone No. _____

Occupation/Job Incarcerated
Length of Employment _____

Driver's License Number 2200274
Social Security Number 420 58 8121

Employer None
Employer's Telephone No. _____

Employer's Address _____

2. ASSISTANCE BENEFITS

Do you or anyone residing in your household receive benefits from any of the following sources? (*if so, please check those which apply.*)

[ ] AFDC [ ] Food Stamps
[ ] SSI [ ] Medicaid
[ ] Other _____

3. INCOME/EXPENSE STATEMENT

Monthly Gross Income:

Monthly Gross Income $17.00

Spouse's Monthly Gross Income *(unless a marital offense)*	____	
Other Earnings: Commissions, Bonuses, Interest Income, etc.	____	
Contributions from Other People Living in Household	____	
Unemployment/Workmen's Compensation, Social Security, Retirement, etc.	____	
Other Income (*be specific*)		
_____	____	
TOTAL MONTHLY GROSS INCOME		$17.00

Monthly Expenses:

A. Living Expenses		
Rent/Mortgage	$17.00	
Total Utilities: Gas, Electricity, Water, etc.	____	
Food	____	
Clothing	____	
Health Care/Medical	____	
Insurance	____	
Car Payment(s)/ Transportation Expenses	____	
Loan Payment(s)	____	

Monthly Expenses: (cont'd from page 1)

Credit Card Payment(s)	____	
Educational/Employment Expenses	____	
Other Expenses (*be specific*)		
_____	____	
Sub-Total		A $____

B. Child Support Payment(s)/ Alimony ____

Sub-Total **B** $____

C. Exceptional Expenses ____

TOTAL MONTHLY EXPENSES *(add subtotals from A & B monthly only)* $17.00

Total Gross Monthly Income less total monthly expenses:

DISPOSABLE MONTHLY INCOME $____

---

4. LIQUID ASSETS:

Cash on Hand/Bank *(or otherwise available such as stocks, bonds, certificates of deposit)* $ 0

Equity in Real Estate (value of property less what you owe) _____

Equity in Personal Property, etc. (such as the value of motor vehicles, stereo, VCR, furnishings, jewelry, tools, guns less what you owe) _____

Other *(be specific)* Do you own anything else of value?
[ ]Yes [ ]No

(land, house boat, TV, stereo, jewelry) _____
If so, desribe _____

_____

TOTAL LIQUID ASSETS

$ 0

---

5. Affidavit/Request

I swear or affirm that the answers are true and reflect my current financial status. I understand that a false statement or answer to any question in the affidavit may subject me to the penalties of perjury. I authorize the Court or its authorized representative to attain records or information pertaining to my financial status from any source in order to verify information provided by me. I further understand and acknowledge that, if the Court appoints an attorney to represent me, the Court may require me to pay all or part of the fees and expenses of my court-appointed counsel.

Sworn to and subscribed before me this

24th day of January, 1997.

/s/ Sandra S. Sansom
Judge/Clerk/Notary

/s/ Michael H. Bozeman
Affiant's Signature

/s/ Michael H. Bozeman
Print or Type Name

SECTION II. ORDER OF COURT

IT IS THEREFORE, ORDERED AND ADJUDGED BY THIS COURT AS FOLLOWS:

[ ] Affiant is not indigent and request is DENIED.

[ ] Affiant is partially indigent and able to contribute monetarily toward his defense; therefore, defendant is ordered to pay $____ toward the anticipated cost of appointed counsel. Said amount is to be paid to the Clerk of Court or as otherwise ordered and disbursed as follow: _____

[✓] Affiant is indigent and request is GRANTED.

[ ] The prepayment of docket fees is waived.

IT IS FURTHER ORDERED AND ADJUDGED that Mark Christensen, is hereby appointed as counsel to represent affiant.

IT IS FURTHER ORDERED AND ADJUDGED that the Court reserves the right and may order reimbursement of attorney's fees and expenses, approved by the Court and paid to the appointed counsel, and costs of court.

Done this 24th day of January, 1997.

/s/ Jerry E. Stokes
Judge

[Filed Jan. 24, 1997]

IN THE CIRCUIT COURT OF COVINGTON COUNTY, STATE OF ALABAMA

STATE OF ALABAMA, plaintiff

v.

MICHAEL HERMAN BOZEMAN, defendant

action# sid# 1139445 Oct 9, 1996.

JUDGE ASHLEY McKATHAN.

Complaint and Request for Declaratory Judgment as Motion to dismiss indictment on the basis of; Article VI of U.S. Constitution and Alabama Code (1975), §15-9-81 represents a contracting I.A.D. et. seq.; denial of procedural due process as guaranteed in Amendment 14 of the United States Constitution and its Amendments; by Judicial Notice.

[A] Comes now, Michael Herman Bozeman, Pro Se, making a complaint for relief of "denial" or rather complete disregard for the Supreme Law, Amendment 14.

[B] Mr. Bozeman, moves the Court, to rule that the State of Alabama, has initiate prosecution in direct violation to articles of I.A.D. Act in §2 Article IV e, and Article V e, of the self same act; in disregard of Constitutional prohibitions of Amendment 14, section 1,5.

[C] Mr. Bozeman was and is in "Federal Custody" and therefore was taken by "Writ" on 11-8-95, after being duly convicted and sentence imposed by U.S.D.C.J.-Honorable W. Harold Albritton, in case #95-140-N; and a copy of Presentence Report page #7 list the judicial notice of

§2, Art. IV e, and Art. V e; sentence imposed on 11-3-1995.

[D] The Court may know that the Prosecutor has been known to misuse and abuse a legal process; and Mr. Bozeman requests the Court to take judicial notice of page 7, Bozeman's PSR ¶3, ¶34 as recorded for all to see; and a photocopy of case #95-000350-00- Judge MAM. file action summary.

[E] Both paragraph "C" and "D" above show a writ was issued, and custody was obtained, and all matters pending were to be processed by I.A.D. law.

[F] All party States agreed that the Godly, sacred objectives of our Great Constitution, forbids the outright denial of equal application, equal protection, and due process in all criminal action had or intended to be taken.

[G] The laws of the Alabama Constitution also forbid such acts and/or endorsed, to deprive, or punish one contrary to the Constitution and its Amendments as outlined in public policy.

[H] The action to prosecute Mr. Bozeman, in direct disregard of Right to "due process"; and has been deliberately done or endorsed to cause, duress, stress, cruel and unusual punishment, by the misuse of and abuse of a legal process.

[I] The Court has justiability to dismiss the indictment with prejudice and bar and forbid any and all retaliatory acts and omissions, that may be done or endorsed, to retaliate against Mr. Bozeman for exercising the grants and entitlements contained in the Constitution and its Amendments and those of the State of Alabama as well.

Therefore

By law under Article V e, of §2 the I.A.D. agreement, after failing to prosecute all charges had and listed; causes the "doctrine of Collateral estoppel" to apply, or plain procedural due process default; and this causes loss of all jurisdiction in the case at bar.

Relief Sought

1. Bar from any further legal action in the State of Alabama.

2. Award $3,000.00 U.S. currency for the acts and omissions, done or endorsed to deprive under the Title 42 USC§ 1985(3), §1986 redress doctrine.

3. Dismiss the instant indictment with prejudice.

I do declare under the penalty of perjury by law, [28 USC §1746(2)], that a true copy was sent by U.S. Mail postage prepaid to the following:

Clerk of Circuit Court for Covington County, Alabama.
Covington County Courthouse;
Andalusia, Alabama. 36420

Additional copy for State Prosecutor.

Executed on 1-20-97

/s/ Michael Herman Bozeman
Michael Herman Bozeman
Reg# 09549-002 – A/B
P.O. Box 7007
Marianna, Florida. 32447-7007

ALABAMA JUDICIAL DATA CENTER
CASE ACTION SUMMARY
CASE: cc 95 000350.00

IN THE CIRCUIT COURT OF
COVINGTON COUNTY JUDGE: MAM
STATE OF ALABAMA VS BOZEMAN
MICHAEL HERMAN

07/18/97	TEXT	WARRANT SLIP
07/18/95	TEXT	COMPLAINT
09/14/95	TEXT	INDICTMENT
09/14/95	TEXT	WRIT OF ARREST
10/31/95	TEXT	WRIT FILED, EXECUTED AS TO MICHAEL HERMAN BOZEMAN
10/31/95	TEXT	ON NOVEMBER 8, 1995
11/08/95	TEXT	AFFIDAVIT OF SUBSTANTIAL HARDSHIP AND ORDER AP -
11/08/95	TEXT	POINTING HON. GERALD JOHNSON AS ATTORNEY
11/14/95	TEXT	REQUEST FOR DISCOVERY
11/14/95	TEXT	ANSWER TO MOTION FOR DISCOVERY

11/8 1995. Defendant arraigned in open Court and pleads Not Guilty /s/ Jerry E. Stokes, Circuit Judge.

11/9/95	Notice of Appearance
11/9/95	Plea of Not Guilty
11/9/95	Motion For Inspection and Discovery
11/9/95	Motion to Dismiss Indictment
11-20-95	Answer to Request for Discovery
2-15-96	Motion for Ailowance of Overhead Expenses

03/19/96 Order the Court hereby approves in advance $25.00 per hour in overhead expenses each billable hour deft's attorney works on this case. Request for a higher allowance is denied. /s/ MAM

4-30-96	Motion for Speedy Trial
5-3-96	Order setting hearing on June 24, 1996 at 9:00 a.m.
6-4-96	Case nolle prossed on motion of the State.

/s/ Ashley McKathan, Judge

STATE OF ALABAMA
COVINGTON COUNTY
I, Roger A. Powell, Clerk of the Circuit Court of Covington County Alabama, hereby certify that the within is a true and correct copy of the Case Action Summary on file in said office.

Witness my hand and the seal of said Court, is hereto affixed, the 5th day of June 1996.

Roger A. Powell
Clerk Circuit Court

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

UNITED STATES OF AMERICA	)	**PRESENTENCE INVESTIGATION REPORT**
v.	)	
MICHAEL H. BOZEMAN	)	**Docket Number: 95-140-N**

CHANGE(S) IN PSR

Prepared for: The Honorable W. Harold Albritton
United States District Judge

Prepared by: Jo Ann Sellers
United States Probation Officer
Montgomery, Alabama
(334) 223-7301

Assistant U.S. Attorney
Charles F. Teschner
One Court Square,
Suite 201
Post Office Box 197
Montgomery, AL
36101-0197
(334)-223-7280

Defense Counsel
Mark A. Cavanaugh
4142 Carmichael Road,
Suite C
Montgomery, AL 36106
(334) 269-9101

Sentence Date: November 3, 1995

Offense: Count I: Conspiracy to Possess with Intent to Distribute Methamphetamine [21 U.S.C. § 846] – Not less than 5 years nor more than 40/$2,000,000 fine

Release Status: Custody of U.S. Marshal since June 16, 1995

Detainer(s): None Known

Codefendant(s): None

Related Case(s): None

Date Report Prepared:
September 15, 1995

Date Report Revised:
October 19, 1995

* * *

Other Criminal Conduct

30. On March 22, 1993, the defendant went to the home of Linda Weed, Opp, Alabama, and asked to see his ex-wife, Yvonne Bozeman. Ms. Weed advised that Ms. Bozeman was not there and the defendant began cursing and threatening her. The police were called. They asked Bozeman to leave and advised him that he would be arrested if he returned. Bozeman left at that time.

31. On December 23, 1994, the defendant called the home of Yvonne Bozeman in Opp, Alabama. He demanded to see her, which was recorded on the answering machine. Subject also threatened to come into the house and take the answering machine by force.

32. On May 29, 1995, someone cut the driver's front and back tires of Yvonne Bozeman's car which was parked in front of her residence in Opp, Alabama. Neighbors heard a hissing sound and saw a truck, identified as that of the defendant, driving away.

33. On July 6, 1995, the defendant was arrested by Opp police officers on a Harassing Communications and Criminal Trespassing warrant. During a search of Bozeman's person, a white pill bottle containing eight blue tablets was found in Bozeman's left front pocket. The pills were tested at the Department of Forensic Sciences in Dothan, Alabama. They were identified as Diazepam, a Schedule IV controlled substance.

Pending Charge(s)

34. At 12:08 a.m. on June 15, 1995, an unknown person fired into the residence of Yvonne Bozeman, 503-B East Park Avenue, Opp, Alabama. The victim was lying in bed at the time of the offense. Several rounds penetrated her bedroom wall. This same date at 2:07 a.m., an unknown person fired into the residence of Milton Williams at 2508 84 West, Opp, Alabama. Several rounds entered the residence, including the bedroom where the victim was sleeping. Additionally, the rear window of his Chevrolet Monte Carlo and his Chevrolet pick-up truck were shot[.] On June 15, 1995, at 11:00 a.m., an unknown person shot into the residence of Linda Weed, 303 Monroe Street, Opp, Alabama. The two shots fired entered a front window where a bedroom is located. The defendant was subsequently arrested and charged on June 15, 1995, by the Covington County Sheriff's Department with Intimidating a Witness.

[1] STATE OF ALABAMA,	)	IN THE CIRCUIT COURT
	)	OF COVINGTON
PLAINTIFF,	)	COUNTY, ALABAMA
	)	
VS.	)	CASE NO. CC 97-16
	)	
MICHAEL HERMAN BOZEMAN,	)	
	)	
	)	
DEFENDANT.	)	

CAPTION

This cause coming on for hearing before Honorable Jerry E. Stokes, Circuit Judge, 22nd Judicial Circuit of Alabama, Andalusia, Alabama, on the 24th day of January, 1997, at 11:45 A.M., in the Chambers of the Court.

APPEARANCES:

FOR THE STATE:	Honorable Eugenia Loggins District Attorney 22nd Judicial Circuit Andalusia, Alabama 36420
FOR THE DEFENDANT:	Honorable Mark Christensen P.O. Box 507 [2] Andalusia, Alabama 36420

REPORTED BY

BOBBIE H. NICHOLS

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PROCEEDINGS: **4**

REPORTER'S CERTIFICATE: **13**

[4] **MR. CHRISTENSEN:** I would also like, if possible, to – it appears that there may be some question about whether the Interstate Agreement on Detainers was properly followed and I need to do some checking on that. What would we would like to. . . .

THE COURT: Well, I'll give you leave to file any motions. . . .

MR. CHRISTENSEN: Okay.

THE COURT: Or raise any matters that you would normally. . . .

MR. CHRISTENSEN: File prior to arraignment.

THE COURT: File prior to arraignment, because of your appointment this morning.

MR. CHRISTENSEN: Thank you, sir.

THE COURT: Do we have a case number yet?

[5] **MRS. LOGGINS:** No, Your Honor, we don't. All we have is Grand Jury Number 230 through 232 from the September '96 Grand Jury.

THE COURT: Okay. The record will show that we are proceeding to an arraignment of the Defendant, "Sonny" Bozeman. I don't know if that is how you are listed on this – Michael Herman Bozeman, also known as "Sonny" Bozeman. Okay.

This case is one in which the Defendant was transported to the Covington County Jail recently and is incarcerated in Florida.

MR. BOZEMAN: I'm in Marianna now.

THE COURT: Marianna.

MR. BOZEMAN: No, sir, the other cases, I was transported here was on eight Diazipan [sic] pills.

THE COURT: But where are you now, Florida?

[6] **MR. BOZEMAN:** Yeah, Marianna, Florida.

THE COURT: Marianna, Florida. Okay. Well, the record will show that Mr. Christensen here was appointed this morning and the Court understands that he may not have had an adequate opportunity to look into your case thoroughly before being asked to face arraignment. So I am going to proceed with the arraignment, but grant leave on the record to Mr. Christensen to file after arraignment any motions or raise any matters that he might otherwise normally look into and file prior to arraignment.

So with that qualification, we will proceed to arraignment. You are Michael Herman Bozeman also known as "Sonny" Bozeman?

MR. BOZEMAN: Yes, sir.

THE COURT: Okay. You may arraign the Defendant.

[7] **MRS. LOGGINS:** This is Grand Jury Number 230 through 232, September 1996 Term.

"Count One. The Grand Jury of Covington County charges that before the finding of this indictment, Michael Herman Bozeman, also known as Sonny Bozeman, whose name is unknown to the Grand Jury other

than as stated, did shoot or discharge a firearm, explosive or other weapon which discharges a dangerous projectile, to-wit: Pistol and/or rifle, into a dwelling, to-wit: 2508 Highway 84 West, Opp, Alabama, while said dwelling was occupied by Milton Williams, in violation of Title 13A-11-61 of the Code of Alabama, 1975, and as last amended, against the peace and dignity of the State of Alabama."

"Count Two. The Grand Jury of Covington County charges that before the finding of this indictment, Michael Herman Bozeman, also known as Sonny Bozeman, whose name is unknown to the [8] Grand Jury other than as stated, did shoot or discharge a firearm, explosive or other weapon which discharges a dangerous projectile, to-wit: Pistol and/or rifle, into an unoccupied dwelling, building, railroad locomotive, railroad car, aircraft, automobile, truck or watercraft, to-wit: Chevrolet truck belonging to Milton Williams, in violation of Title 13A-11-61 of the Code of Alabama, 1975, and as last amended, against the peace and dignity of the State of Alabama."

"Count Three. The Grand Jury of Covington County charges that before the finding of this indictment, Michael Herman Bozeman, also known as Sonny Bozeman, whose name is unknown to the Grand Jury other than as stated, did shoot or discharge a firearm, explosive or other weapon which discharges a dangerous projectile, to-wit: Pistol and/or [9] rifle, into an unoccupied dwelling, building, railroad locomotive, railroad car, aircraft, automobile, truck or watercraft, to-wit: Buick automobile, in violation of title 13A-11-61 of the Code of Alabama,

1975, and as last amended, against the peace and dignity of the State of Alabama."

"Count Four. The Grand Jury of Covington County charges that before the finding of this indictment, Michael Herman Bozeman, also known as Sonny Bozeman, whose name is unknown to the Grand Jury other than as stated, did shoot or discharge a firearm, explosive or other weapon which discharges a dangerous projectile, to-wit: Pistol and/or rifle, into a dwelling and/or building, to-wit: 503 1/2 East Park Avenue, Opp, Alabama, while said dwelling and/or building, was occupied by Yvonne Bozeman, in violation of Title 13A-11-61 [10] of the Code of Alabama, 1975, and as last amended, against the peace and dignity of the State of Alabama."

"Count Five. The Grand Jury of Covington County charges that before the finding of this indictment, Michael Herman Bozeman, also known as Sonny Bozeman, whose name is unknown to the Grand Jury other than as stated, did shoot or discharge a firearm, explosive or other weapon which discharges a dangerous projectile, to-wit: A pistol and/or rifle, into an unoccupied dwelling, and/or building, to-wit: 303 Monroe Street, Opp, Alabama, in violation of Title 13A-11-61 of the Code of Alabama, 1975, and as last amended, against the peace and dignity of the State of Alabama."

THE COURT: Okay. Before I ask you to enter a plea, I also forgot to take up the [11] counsel situation. I have not really formally asked you whether you need the Court to appoint you a lawyer.

MR. BOZEMAN: Yes, sir, I need one.

THE COURT: All right. There is a form you have to fill out to that effect and I'll let you just fill it out late, because I know that you are incarcerated and we will go ahead and proceed. I asked Mr. Christensen to go ahead and see you, anticipating request for counsel to be forthcoming, but I will get you the form and let you sit down with him and get that completed before you leave.

To the indictment in this case, how do you plead?

MR. BOZEMAN: Not guilty.

THE COURT: Then a not guilty plea will be entered and this case will move on in due course to trial. And I will get that form for [12] you right now, then that will complete the arraignment. So you will stay in touch with your attorney or he will stay in touch with you and make sure you have got the means to stay in communication.

MR. CHRISTENSEN: I have got his address.

MRS. LOGGINS: Thank you, Your Honor.

THE COURT: All right.

MRS. LOGGINS: Thank you, Mark.

[Filed Feb. 21, 1997]

IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,

Plaintiff,

vs. Case No.: CC-97-16

MICHAEL HERMAN BOZEMAN,

Defendant.

DEFENDANT'S MOTION TO DISMISS

Defendant, by and through his undersigned attorney, hereby moves this Honorable Court to dismiss the above-captioned case with prejudice because the State has violated the provisions of the Interstate Agreement on Detainers (IAD), Code of Alabama, 1975 as amended, § 15-9-81.

The Interstate Agreement on Detainers requires "the expeditious and orderly disposition of . . . any and all detainers based on untried indictments, informations or complaints." IAD, art. I. The United States of America is a "state" under IAD. IAD, art. II; *United States v. Mauro*, 436 U.S. 340, 354 (1978). Defendant is currently in the custody of the United States. The Covington County District Attorney had lodged a detainer against Defendant based on the charges brought against him in the above-captioned case. *See* Exhibit "A" attached hereto. On November 4, 1996, Defendant executed a request pursuant to IAD to have the detainer resolved. As a result, the Defendant was transferred to the custody of the Sheriff of

Covington County, Alabama. He was arraigned on the charges in the above-captioned case on January 24, 1997. However, the Defendant was transferred back to the custody of the federal government subsequent to his arraignment.

The IAD provides that "[i]f trial is not had on any indictment, information or complaint contemplated hereby *prior* to the prisoner's being returned to the original place of imprisonment . . . such indictment, information or complaint shall not be of any further force or effect, and the court *shall* enter an order dismissing the same with prejudice." IAD, art. IV(e) (emphasis added). Since the Defendant was returned to his original place of imprisonment prior to the trial being had on this matter, the charges must be dismissed with prejudice.

WHEREFORE, the premises considered, Defendant respectfully requests this Honorable Court to enter an Order dismissing this case with prejudice.

/s/ Mark John Christensen
Mark John Christensen
P.O. Box 507
Andalusia, Alabama 36420
334/222-7118
Attorney for Defendant,
MICHAEL HERMAN BOZEMAN

[Certificate Of Service Omitted In Printing.]

EXHIBIT "A"

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

AGREEMENT ON DETAINERS NOTICE OF UNTRIED INDICTMENT, INFORMATION OR COMPLAINT AND OF RIGHT TO REQUEST DISPOSITION

Inmate Bozeman, Michael No. 09549-022
Institution USP ATLANTA, GA

Pursuant to the Agreement on Detainers, you are hereby informed that the following are the untried indictments, informations, or complaints against you concerning which the undersigned has knowledge, and the source and contests of each.

SHOOTING OR DISCHARGING FIREARM INTO AN UNOCCUPIED BUILDING	Covington County District Attorney Andalusia, AL
SHOOTING OR DISCHARGING FIREARM INTO AN UNOCCUPIED VEHICLE	

You are hereby further advised that by the provisions of said Agreement you have the right to request the appropriate prosecuting officer of the jurisdiction in which any such indictment, information or complaint is pending and the appropriate court that a final disposition be made thereof. You shall then be brought to trial within 180 days, unless extended pursuant to provisions of the

Agreement, after you have caused to be delivered to said prosecuting officer and said court written notice of the place of your imprisonment and your said request, together with a certificate of the custodial authority as more fully set forth in said Agreement. However, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

Your request for final disposition will operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against you from the state to whose prosecuting official your request for final disposition is specifically directed. Your request will also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein and a waiver of extradition to the state of trial to serve any sentence there imposed upon you, after completion of your term of imprisonment in this state. Your request will also constitute a consent by you to the production of your body in any court where your presence may be required in order to effectuate the purposes of the Agreement on Detainers and a further consent voluntarily to be returned to the institution in which you are now confined.

Should you desire such a request for final disposition of any untried indictment, information or complaint, you are to notify the Inmate Systems Manager of the institution in which you are confined.

You are also advised that under provisions of said Agreement the prosecuting officer of a jurisdiction in which any such indictment, information or complaint is

pending may institute proceedings to obtain a final disposition thereof. In such event, you may oppose the request that you be delivered to such prosecuting officer or court. You may request the Warden to disapprove any such request for your temporary custody but you cannot oppose delivery on the grounds that the Warden has not affirmatively consented to or ordered such delivery.

DATED: 10-29-1996

DATE RECEIVED:
Nov. 4 1996

Federal Bureau of Prisons
(Insert Name and Title of Custodial Authority)

BY: W. Scott, Warden
(Chief Executive Officer)

/s/ Michael H. Bozeman
Inmate's Signature

[Filed Feb. 25, 1997]

IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,

Plaintiff,

Case No.: CC-97-16

vs.

MICHAEL HERMAN BOZEMAN,

Defendant.

MEMORANDUM BRIEF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS

Defendant has moved the Court to dismiss the above-captioned case with prejudice because of the State's violation of the provisions of the Interstate Agreement on Detainers (IAD), Code of Alabama, 1975 as amended, § 15-9-81. The Defendant was arrested on June 15, 1995 for the shooting incidents with which he has been charged in the above-captioned case. It is undisputed that the Defendant is and has been in federal custody since June 16, 1995. He was sentenced in federal court, the United States Court for the Middle District of Alabama, on November 3, 1995 in Case No. 95-140-N. The defendant's presentencing report shows that the shooting charges were still pending. Subsequently, the Defendant was charged with possession of a controlled substance in Covington County Case CC-95-350 and was transferred to the custody of the Sheriff of Covington County, Alabama. The charges in CC-95-350 were nol prossed on June 4, 1996. The Defendant was then returned to federal

custody without having been tried on the pending shooting charges.

The defendant was brought from the federal penitentiary to Covington County in the custody of the Sheriff of Covington County and arraigned on the shooting charges in the above-captioned case on January 24, 1997. However, the Defendant was again transferred back to the custody of the federal government subsequent to his arraignment.

The IAD provides that

> If trial is not had on any indictment, information or complaint contemplated hereby *prior* to the prisoner's being returned to the original place of imprisonment . . . such indictment, information or complaint shall not be of any further force or effect, and the court *shall* enter an order dismissing the same with prejudice.

IAD, art. IV(e) (emphasis added). Since the Defendant was returned to his original place of imprisonment prior to the trial being had on this matter, the charges must be dismissed with prejudice. Defendant's motion is due to be granted for the following reasons:

1. Defendant expects to present evidence at the hearing on the Motion to Dismiss that will show that on or about November 4, 1996, Defendant executed a valid request pursuant to IAD to have the detainer resolved. As a result, since the Defendant was sent back into federal custody before having his detainers resolved, the Court must dismiss these charges with prejudice. IAD, art. IV(e); *State v. Hill*, 638 So. 2d 1376, 1380 (Ala. Crim. App. 1993).

2. The Court has previously noted that a Defendant must follow a strict statutory process in order to bring the provisions of IAD into play. This is true when the process is initiated by the prisoner himself pursuant to Article III of IAD. However, the Defendant would call the Court's attention to Article IV of IAD which permits the process to be initiated by "[t]he appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending." IAD, art. IV(a). *See also People v. Browning*, 306 N.W. 2d 326, 336-337 (Mich. App. 1981). In either case, "[i]f trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment . . . such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice." IAD, art. IV(e). There are only two ways in which the Defendant could have come to be in the custody of the Sheriff of Covington County: either the Defendant made a valid request or the District Attorney requested his presence. Regardless of how it came about, it is undisputed that the Defendant has been at least twice in the temporary custody of the Sheriff of Covington County and has been returned to the custody of the federal government without having been tried on the charges in the present case.

3. The Defendant was first transferred to the custody of the Sheriff of Covington County in connection with CC-95-350. The fact that he had not been indicted on the charges in the present case is irrelevant. The IAD contemplates not only indictments and informations but also "complaints." IAD, art. I. As noted above, the present charges were pending when the Defendant was first transferred from federal custody, and they should have been resolved at that time. The State

cannot avoid the "anti-shuffling" provisions of IAD merely by claiming that there was no indictment at the time. Once the State had taken temporary custody of the Defendant, he should have been indicted and tried on all pending charges before he was returned to federal custody.

4. Even if the Court should choose to disregard the the [sic] earlier violations of IAD, the State has clearly violated the IAD by transferring the Defendant back into federal custody subsequent to his arraignment. Both Article III and Article IV of IAD require dismissal of any charges that are not tried prior to being returned to the original place of imprisonment. IAD, art. III(d) & IV(e). Article V applies to requests made by the prisoner under Article III as well as to requests made by the State under Article IV. *See* IAD, art. V(a).

> [I]n the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in article II or article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter and [sic] order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

IAD, art. V(c).

5. Defendant's contentions are well-supported by the case law on IAD. In *State v. Hill*, 638 So. 2d 1376 (Ala. Crim. App. 1993), the Alabama Court of Criminal Appeals upheld an Alabama trial court's refusal to grant extradition to Tennessee. Hill had been extradited to Tennessee, but had then been returned to Alabama prior to trial. Significantly, the *Hill* case notes that "the record before us does not unequivocally establish that a detainer was placed on the

appellee by the State of Tennessee." Nevertheless, since Tennessee had custody of him and had returned him to Alabama, the court refused to transfer Hill back to Tennessee for trial. *Hill*, 638 So. 2d at 1378. The Court of Criminal Appeals affirmed, holding that Hill had waived the 120 day provision of the IAD but had not waived the anti-shuffling provision. *Id.* at 1379-1380. Thus, in the present case, even if the Defendant did not make a request under IAD, the State has violated the anti-shuffling provision of IAD. As authority, the *Hill* case cited *Webb v. Keohane*, 804 F.2d 413 (7th Cir. 1986) and *People v. Browning*, 306 N.W. 2d 326, 334-335 (Mich. App. 1981). Although the Seventh Circuit affirmed a denial of a petition for a writ of habeas corpus based on an alleged violation of the anti-shuffling provision of IAD in *Webb*, it based its decision on a finding that the petitioner had waived his right not to have been returned to federal custody prior to trial by actually requesting that he be returned. This exception does not apply to the present case because the Defendant has not requested a return to federal custody. Therefore, the general rule set forth in the *Webb* case applies: "This provision, known as the "anti-shuffling" provision, provides that a prisoner transferred pursuant to the IAD, if returned to his original place of imprisonment prior to trial, will have his indictment dismissed with prejudice." *Webb v. Keohane*, 804 F.2d 413, 414 (7th Cir. 1986). The *Browning* case is even more compelling. Browning was never housed in a state facility; he was transferred from a federal penitentiary in Indiana to a penitentiary in Michigan and taken from there to the federal building in Detroit where Detroit police officers took custody of him and transported him to the state court for its proceedings. *People v. Browning*, 306 N.W. 2d 326, 330 (Mich. App. 1981). The defendant was then transferred back to the federal penitentiary

in Indiana because his trial was not scheduled for four more months. *Id.* The Court of Appeals of Michigan affirmed a dismissal of the charges against him because "Article IV(e) of the IAD required dismissal when defendant was returned to Terre Haute before trial." *Id.* at 339.

6. In summary, IAD applies, whether or not the Defendant filed a valid request, because the State filed a detainer and obtained custody of the Defendant. The Defendant has been returned to federal custody. The Alabama Court of Criminal Appeals has cited *Browning* as authority, and the transfer back to federal custody in *Browning* was less clear than it is in the present case. Therefore, the charges must be dismissed for violation of IAD, Article IV(e).

WHEREFORE, the premises considered, Defendant respectfully requests this Honorable Court to enter an Order dismissing this case with prejudice.

/s/ Mark John Christensen
Mark John Christensen
P.O. Box 507
Andalusia, Alabama 36420
334/222-7118
Attorney for Defendant,
MICHAEL HERMAN BOZEMAN

[Certificate Of Service Omitted In Printing.]

[Filed Feb. 25, 1997]

IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,

Plaintiff,

vs. Case No.: CC-97-16

MICHAEL H. BOZEMAN

Defendant.

DEFENDANT'S REQUEST FOR ADDITIONAL DISCOVERY AND MOTION TO SHORTEN TIME

Defendant, MICHAEL H. BOZEMAN, hereby requests the State of Alabama:

1. To produce and permit the defendant to inspect and copy any and all documents, correspondence, memoranda, or other written communications mentioning or relating to the Defendant, MICHAEL H. BOZEMAN, received by the State from federal authorities.

Alternatively, Defendant requests the State to stipulate that the State received a valid request for final disposition from the Defendant pursuant to Article III of the Interstate Agreement on Detainers (Code of Alabama, § 15-9-81) during November of 1996.

Also, said discovery or stipulation being necessary for a hearing on the Defendant's Motion to Dismiss, and the trial of this matter being scheduled for this week, Defendant hereby moves the Court for an Order directing the State to provide said discovery prior to trial in order

that it can be considered when the Court holds a hearing on the Defendant's Motion to Dismiss.

2/25/97
Date

/s/ Mark John Christensen
Mark John Christensen
P.O. Box 507
Andalusia, Alabama 36420
334/222-7118
Attorney for Defendant,
MICHAEL H. BOZEMAN

[Certificate Of Service Omitted In Printing.]

[1] IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,	*	
PLAINTIFF,	*	
VS	*	CC-97-16
MICHEAL HERMAN BOZEMAN,	*	
DEFENDANT.	*	

This cause coming on to be heard before Honorable M. Ashley McKathan, Circuit Judge, 22nd Judicial Circuit of Alabama, on the 27th day of February, 1997.

APPEARANCES:

For the State

Hon. Eugenia Loggins

District Attorney

Covington County Courthouse

Andalusia, Alabama 36420

For the Defendant

Hon. Mark John Christensen

Attorney at Law

Post Office 507

Andalusia, Alabama 36420

* * *

[11] (in chambers with the defendant and counsel for the parties present)

THE COURT: This is CC-97-16, State of Alabama versus Michael Herman Bozeman. Mr. Bozeman is personally present and is represented by his attorney, Hon. Mark Christensen. Mr. Bozeman has filed certain motions seeking dismissal of this action based on the Interstate Agreement on Detainer's Act.

I first knew of those motions this week, and this is my jury week, and I simply have not had an opportunity to have a hearing and deal with the motion at this point. And I have decided to handle the matter in this fashion: I am going to deny the motions related to the Interstate Agreement on Detainer's Act out of hand, without a hearing, so that he can proceed with the trial today.

However, the defendant, is not waiving his right to address that issue and he is not waiving the right to put on testimony about it and I am reserving to him his right to put on testimony about it and I am reserving to him his [12] right to raise the issue by way of post-trial motion. And I will give the matter detailed consideration by way of post-trial motion.

I simply don't have opportunity now to stop and have a hearing about the matter, but I don't want to take the issue away from the defendant. I want him to have it fairly considered and I intend to do that, but on the other hand I can't do it today.

MR. CHRISTENSEN: Your Honor, we would also ask that we – and this maybe implicit in your ruling, but we would like to have the opportunity to introduce documentary evidence as well as testimony.

THE COURT: Right. It is my understanding, first of all, that you all want to do that now; have the

hearing, put on testimony. And I have denied you that opportunity. So I don't think that you have waived anything in that respect. It is not my intention to cause you to waive anything by my proceeding today.

And what I intend to do is try this case, [13] and in the event the jury returned a verdict of guilty, then we will give the matter further consideration on a post-trial basis and we will have a hearing and take any testimony that you want to take, consider any documents, and look at it in that fashion.

(proceedings resumed in open court with all parties and counsel present) (after jury voir dire counsel approached the bench)

* * *

IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,	*	
PLAINTIFF,	*	
VS	*	CC-97-16
MICHEAL HERMAN BOZEMAN,	*	
DEFENDANT.	*	

This cause coming on to be heard before Honorable M. Ashley McKathan, Circuit Judge, 22nd Judicial Circuit of Alabama, on the 28th day of February, 1997.

* * *

[194] (jury was escorted from the library)

THE COURT: Before we began this trial I told the attorneys that I would take a further look at the Interstate Agreement on Detainer's Act issue and I am going to schedule a hearing for the 12th day of March, 1997 at 9:00 in the morning to allow you to put on any testimony that you want to about that matter and to give it the consideration that I said that I would. And I am going to schedule a judgment and sentencing hearing for the next month, the 21st day of April, 1997, at 9:00 in the morning. And [195] at this time, Mr. Bozeman, you are remanded to the custody of the sheriff.

MS. LOGGINS: Your Honor, we need to be sure that he is not sent back to Florida until this is over.

MR. CHRISTENSEN: I believe that issue is mute, [sic] Your Honor. They have already done what is – –.

MS. LOGGINS: I think it is waived, but unless he wants to go back I think we need to make an effort that he remain.

MR. CHRISTENSEN: I think that the district attorney is conceding my point.

MS. LOGGINS: I think Mr. Bozeman has waived his complaints.

MR. CHRISTENSEN: He absolutely has not.

THE COURT: Whatever has happened heretofore has happened heretofore, and whatever happens in the future you are going to have [to] house Mr. Bozeman until I can deal with these issues. And let me say in connection with that, I don't know what happened heretofore and I haven't heard any testimony on that, so I am [196] going have to wait and see how it comes down. Thank you.

(court was adjourned)

IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,	*	
PLAINTIFF,	*	
VS.	*	CASE NO. CC-97-16
MICHAEL HERMAN BOZEMAN,	*	
DEFENDANT.	*	

ORDER

The Court having represented to counsel that it would undertake to hear and determine issues raised by defendant respecting the Interstate Agreement on Detainer's Act on a post-trial basis, it is therefore ORDERED and ADJUDGED that a hearing is hereby set for the 12th day of March, 1997, at 9:00 a.m., for the Court to hear and determine such issues.

DONE and ORDERED this 28th day of February, 1997.

/s/ M. Ashley McKathan
M. ASHLEY McKATHAN
CIRCUIT JUDGE

[Filed Feb. 28, 1997]

IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,

Plaintiff,

vs. Case No.: CC-97-16

MICHAEL H. BOZEMAN

Defendant.

DEFENDANT'S REQUEST FOR DISCOVERY IN SUPPORT OF POST-TRIAL PROCEEDINGS AND MOTION TO SHORTEN TIME

Defendant, MICHAEL H. BOZEMAN, hereby requests the State of Alabama:

1. To produce and permit the defendant to inspect and copy any and all documents, correspondence, memoranda, or other written communications mentioning or relating to the Defendant, MICHAEL H. BOZEMAN, received by the State from federal authorities *at any time* from June 15, 1995 to the present.

2. To produce and permit the defendant to inspect and copy any and all documents, correspondence, memoranda, or other written communications mentioning or relating to the Defendant, MICHAEL H. BOZEMAN, sent by the State to federal authorities *at any time* from June 15, 1995 to the present.

3. To produce and permit the defendant to inspect and copy any and all documents, correspondence, memoranda, investigative reports, or other written communications mentioning or

relating to the Defendant, MICHAEL H. BOZEMAN, created by the Opp Police Department on or after June 15, 1995.

4. To produce and permit the defendant to inspect and copy any and all records of the Covington County Sheriff's Department relating to Defendant, MICHAEL H. BOZEMAN, including but not limited to arrest records, investigative reports, records of being in custody, records of transfer of custody, records of temporary custody from June 15, 1995 to the present.

5. Please provide the citations of any authority (and copies of said authorities if not available in the Southern Reporter 2d) that the State contends supports the State's contention that the Interstate Agreement on Detainers (Code of Alabama, § 15-9-81) was not violated by the State.

6. Please provide copies of any documents or authorities on which the State intends to use to show "waiver" under the Interstate Agreement on Detainers.

Also, the hearing on this matter having been set for 9:00 a.m. on Wednesday, March 12, 1997, Defendant requests the Court to shorten the time for responding to the foregoing discovery requests to seven (7) days.

2/28/97
Date

/s/ Mark John Christensen
Mark John Christensen
P.O. Box 507
Andalusia, Alabama 36420
334/222-7118
Attorney for Defendant,
MICHAEL H. BOZEMAN

[Certificate Of Service Omitted In Printing.]

[197] IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,	*	
PLAINTIFF,	*	
VS	*	CC-97-16
MICHEAL HERMAN BOZEMAN,	*	
DEFENDANT.	*	

This cause coming on to be heard before Honorable M. Ashley McKathan, Circuit Judge, 22nd Judicial Circuit of Alabama, on the 12th day of March, 1997.

APPEARANCES:

For the State

Hon. Eugenia Loggins

District Attorney

Covington County Courthouse

Andalusia, Alabama 36420

For the Defendant

Hon. Mark John Christensen

Attorney at Law

Post Office 507

Andalusia, Alabama 36420

[198] (in open court with the defendant and counsel for the parties present)

THE COURT: This is CC-97-16. The case is set today to hear certain matters raised by the defendant

with respect to the Interstate Agreement on Detainer's Act. And basically Mr. Christensen it's your motion as I understand it so I will allow you to proceed.

MR. CHRISTENSEN: I subpoenaed the record's custodian from the Covington County's Sheriff's Department?

HAYWARD THOMAS

The witness, after having been first duly sworn to speak the truth, testified as follows:

DIRECT EXAMINATION

BY MR. CHRISTENSEN:

Q Would you please state your name for the court?

A Hayward Thomas.

Q Mr. Thomas, are you here in response to my subpoena for a record's custodian?

A Yes, I am.

Q Are you in fact the record's custodian for the Covington County Sheriff's Department?

[199] A Jail Administrator.

Q And the records that you have brought with you do they refer to Michael Herman Bozeman?

A Yes, sir.

Q And these records are kept in the normal course of business out there?

A Yes, sir.

Q Can I take a look at these?

A Yes, sir.

Q Let me ask you about this record first. Could you identify for us please what that is?

A That is a copy of Mr. Bozeman's booking cards, it the jail records.

Q From here in Covington County?

A Yes.

Q What was the charge that was brought against him?

A Intimidating a witness; federal.

Q What was the date on that?

A 6/15/95.

Q So he was taken into custody on 6/15/95?

A Yes, sir.

Q And he was to be brought, or there was a [200] federal hold placed on him at that time?

A Yes, sir.

Q And these are copies?

A Copies, yes sir.

Q And they are true and accurate copies?

A Yes, sir.

MR. CHRISTENSEN: I would like to admit this as Defendant's exhibit 1.

THE COURT: It is admitted.

(received into evidence as Defendant's exhibit 1)

Q Do you have any records on Mr. Bozeman from November of 1995?

A No sir, I don't see any in here.

Q Is it possible that there are some?

A Yes sir, it is possible.

Q So if I were to represent to you that Mr. Bozeman was transported from federal custody to Covington County on November 8, 1995, you would have no information to contradict that?

A No, sir.

Q Let me ask you about this document. Could you identify that for us please?

[201] A That is another prisoner jail record.

Q What is the date on that?

A 1/23/97.

Q What does it indicate?

A It shows on here that he was taken into our custody on 1/23/97 and booked into our facility.

Q Does it tell you where you took custody from?

A I believe the federal marshals. It says transported from federal prison for court, brought here for court and then released back to them 1/24/97.

THE COURT: Just a second. When was he returned; I'm sorry?

WITNESS: 1/24 of '97.

THE COURT: Okay.

Q What were the charges there?

A Shooting into a dwelling.

MR. CHRISTENSEN: We move to have this admitted as Defendant's exhibit 2.

THE COURT: It is admitted.

(Defendant's exhibit 2 received into evidence)

[202] Q If you would please identify the document that you are now holding?

A This is a release authorization from the federal prison. Release date was 2/26/97, released to Covington County Sheriff's office.

Q So Covington County again took custody from the federal authorities on 2/27/97?

A Yes.

MR. CHRISTENSEN: Move to have this admitted as Defendant's exhibit 3.

THE COURT: It is admitted.

(received into evidence as Defendant's exhibit 3)

Q Could you identify these forms that are stapled together there that begins, I believe, in transit data form?

A Yes, it's just an in-transit data form from the Federal Bureau of Prisons.

Q What other documents that are stapled together with that?

A That is his clearance and separation data there. I can't read half of it, it is not that clear. It come from them. It shows 1/24/97, [203] 2/26/97.

Q In other words it shows the transfers of custody?

A Yes, sir.

Q Okay.

A That is Bozeman and Bedsole picked him up.

Q This is the form that is necessary for picking him up?

A Right.

Q And it states that this is as an IAD form?

A Interstate Agency Authority.

Q And it states that there is a detainer against him, doesn't it.

A On the front side it says Detainer, Covington County, Alabama, the sheriff's office, discharging a firearm into a building and vehicle.

MR. CHRISTENSEN: Move to have this admitted as Defendant's exhibit 4.

A This here is just his medical for his transportation.

THE COURT: Before you get to that, number 4 is admitted.

[204] (Defendant's exhibit 4 received into evidence)

Q And just to reiterate, as far as you know it is possible that he was also brought into the custody of Covington County Sheriff's Department in November of '95?

A Yes sir, it is possible. I don't have a record of it.

Q Ms. Loggins may have some questions of you.

MS. LOGGINS: No questions.

EUGENIA LOGGINS

The witness, after having been first duly sworn to speak the truth, testified as follows:

DIRECT EXAMINATION

BY MR. CHRISTENSEN:

Q Please state your name for the record?

A Eugenia Loggins.

Q And your occupation?

A I'm the District Attorney for the 22nd Judicial Circuit.

Q That includes Covington County, Alabama?

A That's all it includes, yes sir.

Q And were you the District Attorney for [205] Covington County for the 22nd Judicial Circuit in June of 1995?

A Yes, I was.

Q And continuously from that time up to the present?

A Yes.

Q Are you familiar with the circumstances involving the arrest of Mr. Bozeman in June of 1995, either personally or through your records of having prosecuted the case?

A Let me get the rest of this file. There have been two cases so I'm not sure about which. I apologize. . . . The only thing that I know about the June, '95, arrest was that he was arrested by the federal authorities. I subsequently learned that that was June of 1995, but we didn't receive any paperwork regarding that. I am just going by word of mouth aware that he was arrested by the federal authorities on drug charges at that time.

Q The charges that Deputy Thomas just talked about, the intimidating a witness charges, were those charges involving the same incident that [206] ended up being CC-97-16?

A Not that I am aware of. As I understand that was a separate federal charge that they did not pursue. And I frankly have no idea what the facts were, but from what I have gathered during the last trial it was not necessarily involving the same facts. All I know is that they thought about pursuing that and frankly I can't tell you honestly who that was suppose[d] to be.

Q The State's primary witness at the trial of the case was a Jeffrey Anderson. Are you familiar with when he was interviewed by Bill Shaw from listening to the tape?

A In this case? In case number 97-16?

Q Yes.

A I have a memorandum from Bill Shaw which indicates that it was on June 19th. Somewhere around June 19th, maybe the 20th.

Q But he interviewed Mr. Anderson?

A Latter part of June of '95 regarding this shooting incident.

Q Did he subsequently do any further [207] investigation, further interviews with Mr. Anderson or anything further?

A Not that I am aware of, other than he searched the vehicle.

Q That was all in the same time frame of June of '95?

A Yes, that's all I am familiar with.

Q Mr. Bozeman was indicted on these charges in October of last year, or September?

A We presented this case to the September Grand Jury, September '96 Grand Jury as a special. He had not been charged. They had done an incident offense report and I was contacted by one of the victims to find out why nothing had been done about the case. And I called the Opp Police Department and they said, oh, yeah. Apparently they had just forgotten it in light of the federal charges, and all of that was going on. And so they brought me a case file and so then we presented it, contacted the victims to see if they wanted to proceed

with it. And they indicated that they did and so we .presented it to the grand jury in September of [208] '96 and he was indicted at that time.

Q But as far as, you know, other than talking with these witnesses about bringing the charges forward, there was no further investigation that had been done since June by the Opp Police Department?

A No, it appeared that they had completed the investigation and when they brought us the case file we proceeded on the case file, although they had never arrested him on it.

Q And there was another case that was brought against Mr. Bozeman, CC-95-350, is that correct?

A That had been an earlier case, yes. He was indicted in that case in September of 1995, and that case had been pending at the time he was arrest[ed] by the federal authorities.

Q So he was in federal custody?

A He later became to be in federal custody.

Q Can you identify this document for me please?

A Yes. We had asked that he be brought back. Let me get my copy of it, I think that is the copy I provided to you.

[209] Q Yes, actually it is a copy of the copy?

A A copy of the copy of the copy. But it still looks to be accurate. He was indicted in September and so then we found that he was in federal custody. He was indicted in September of '95. We found out that he was in federal

custody in Montgomery; he was actually in a Montgomery County Jail. And so he was brought back. We filed a writ to have him brought back, to have an attorney appointed, and an attorney was appointed according to my notes on November 8, '95.

Q And that is this document, a copy of that writ?

A That is part of it.

Q That is a prosecutor's certification and here is that other part?

A That is the other part, yes.

THE COURT: He was brought back and counsel was appointed in November of '95?

WITNESS: Yes sir, that is on a different case.

THE COURT: CC-95-350?

WITNESS: Yes, sir. At that time it was [210] September '95 Grand Jury number 147, which is the number that appears on this copy. That was on another drug charge that happened. The drug charge incident happened in May of '95, possession of Diazepam.

Q And at the time that he was transported, appears to be November 8, 1995, he was a federal inmate at that point?

A Well, he was being held in the Montgomery County Jail in federal custody. Now what his status with federal authorities was at that time, I can't tell you.

THE COURT: When was that?

WITNESS: This was in November of '95.

MR. CHRISTENSEN: We move to admit this as Defendant's exhibit 5.

THE COURT: Both documents?

MR. CHRISTENSEN: Ms. Loggins says that they belong together?

WITNESS: Well, we had them stapled together.

THE COURT: It is admitted.

(Defendant's exhibit 5 received into [211] evidence)

Q Would you please identify this document for the court?

A This document, October 10, 1996, is our request for a detainer to be placed on Mr. Bozeman for the charges in case number 97-16, which we sent to Atlanta on that date.

Q So it purports to be signed by your administrative assistant?

A Yes, Jean Scott. I recognize that signature.

Q And this was by your authority that she was requesting this detainer?

A Yes.

MS. LOGGINS: We move to have this admitted as Defendant's exhibit 7.

THE COURT: It is admitted.

(received into evidence as Defendant's exhibit 7)

Q Another letter that appears to request temporary custody of Mr. Bozeman?

A Yes, he was moved from – we understood that he was moved from Atlanta. Subsequently to that we got a response back from them saying that [212] the detainer had been filed for him, against him at our request on 10/29/1996, telling us that he was scheduled for release in January of '98 and that they would notify us again sixty days before his release. But after we got that notice back from them we understood that he had been transferred to Marianna, Florida. So then we sent this letter to Marianna, Florida, in January of '97, that's correct. And I do recognize Jean Scott's handwriting.

THE COURT: You want that admitted?

MR. CHRISTENSEN: Yes, I'm sorry. We are up to number 8.

THE COURT: I think we skipped 6, so I will make it number 6.

(Defendant's exhibit 6 received into evidence)

THE COURT: Was he returned in response to either one of those?

WITNESS: He was not returned in response to the letter to Atlanta. He was returned in response to the letter, the January 8th letter. We filed subsequent forms then, forms 6 and 7. [213] They call them IAD forms 6 and 7. And we filed those forms and that is when he was brought back and arraigned.

THE COURT: In January?

WITNESS: In January '97.

Q This is an IAD form?

A Yes, this is IDA [sic] form 7.

Q In which you agreed to take temporary custody of a federal inmate?

A Yes.

MR. CHRISTENSEN: We would like to have that introduced also.

(Defendant's exhibit 8 received into evidence)

A And these are the forms that they faxed to us.

Q That they requested that you fill these out?

A Yes, they requested that we fill those out.

Q What happened in CC-95-350?

A CC-95-350, he had already I believe at the time – after he was arraigned he filed a Motion for a Speedy Trial and we brought him back in June of '96 and agreed to nol pros because he was serving this federal sentence and this was, [214] frankly, penny ante compared to what he was doing there.

Q So case CC-95-350 has been dismissed?

A Been dismissed, yes.

Q So basically if I just run through the time line and I am just going to ask you whether you agree that this is accurate. Mr. Bozeman was arrested June 15, 1995; he came under federal custody at some point thereafter?

A Yes, he was arrested on federal charges in June of '95.

Q He was transferred back to Covington County, November 8, '95; and then returned to federal custody?

A Yes.

THE COURT: November 8, '95?

WITNESS: Yes.

Q A detainer was placed on him in October of '96 by Covington County?

A Yes, but it was on a different charge.

Q A different charge?

A Yes.

THE COURT: October of '96?

[215] **WITNESS:** Octobmer [sic] of '96.

Q He was transferred back to Covington County January 23, '97?

A Twenty-fourth I think, but he might have been brought back on the 23rd. He was here on the 24th.

Q And then returned to federal custody?

A Yes.

Q And then he was brought back in February of 1997?

A Yes.

Q And remains here and present here in court today?

A Yes, he does.

Q Remains in the temporary custody of Covington County?

A Yes.

Q But he is a federal inmate. You have just temporary custody of him from the federal authorities?

A That's correct.

MR. CHRISTENSEN: Thank you.

THE COURT: All right Ms. Loggins, you [216] want to testify?

MR. CHRISTENSEN: Ask yourself some questions.

THE COURT: You can say what you want to say or you can ask yourself questions. But if you ask yourself questions, but if you ask yourself questions, don't ask yourself repeating questions?

WITNESS: I think mine would be in the nature of argument, Your Honor. I don't mind arguing it at this point in time.

THE COURT: If you have said all you want to say by way of testimony come on down and then when we finish the hearing you can both say whatever you want to by way of argument.

WITNESS: I will say those are all of the documents that we have received – well, they are not all the documents that we received from Mr. Bozeman. We did receive another document from him, which was filed on January 20, of 1997, which would have been after CC-95-350 had been dismissed. Now at the time 95-350 was dismissed the State had no pending charges [217] against Mr. Bozeman.

Although an incident offense report had been filed in which the case which later became 97-16, which is at issue, there were no charges. There was no complaint; no indictment; no arrest warrant. So frankly it existed only as an investigative report. But in January of 1997, which would have been after his indictment in 97-16, and before he was brought back on the 23rd, we did receive, which apparently was after he was notified that we had placed a detainer on him, we received a paper from Mr. Bozeman asking that everything be dismissed. That we had violated the Interstate Agreement on Detainer's, which appeared to be a request to depose [sic] of everything.

I believe the court has a copy of this. It was in some file, it was filed January 24, 1997. And I don't know what file it was in because it doesn't have an action number. But it is dated October 9, 1996, which apparently would refer it to the case number 97.

THE COURT: This one is dated 1/20/1997?

[218] **WITNESS:** Yes, sir, it is dated 1/20/97 but he dates it on page 1, October 9, 1996, which apparently then referred to case number 97-16. So we would offer that or call that to the court's attention, which is the only request that [we] have received from Mr. Bozeman. I don't have anything from November.

If there are no other questions I guess that is it.

THE COURT: Any questions, Mr. Christenson?

MR. CHRISTENSEN: No.

THE COURT: Unless you have something further, Ms. Loggins, you may come down.

MR. CHRISTENSEN: Call Michael Herman Bozeman.

MICHAEL HERMAN BOZEMAN

The witness, after having been first duly sworn to speak the truth, testified as follows:

DIRECT EXAMINATION

BY MR. CHRISTENSEN:

Q Would [you] please state your name for the record?

A Michael H. Bozeman.

[219] Q Mr. Bozeman, you have heard the testimony that you were arrested and on June 15, 1995, is that correct?

A Yes, sir.

Q Were you then transferred to federal custody or perhaps were you arrested by the Sheriff's Department or police department?

A I was arrested by the Sheriff's Department and Alabama DEA.

Q And when were you transferred to federal custody?

A I was arrested that day, the 15th, and they transported me the next day to Montgomery and turned me over to the U.S. Marshal.

Q So from June 16, 1995 you were in federal custody?

A Yes, sir.

Q Did you plead guilty to some of the federal charges that were brought against you?

A Yes, sir I pled not guilty to intimidating a witness and I plead guilty to methamphetamines.

Q Were you sentenced on those charges?

A Yes, sir.

[220] Q What was the date of your sentence?

A The date of any sentence was was [sic] November 3, 1995.

Q So you began serving your sentence then on November 3, 1995?

A Yes, sir.

Q Have you been in continuous federal custody since that time?

A Yes, sir.

Q Have there been some temporary transfers of custody since you began serving your federal sentence?

A Yes, sir.

Q When was the first one that you can recall?

A November the 8th I was brought from Elmore County Jail to Covington County Jail and I was arraigned and appointed a lawyer and returned the same day.

Q The same day?

A Yes, sir.

Q But during that time you were in the temporary custody of the Covington County Sheriff's Department?

[221] A Yes sir. As a writ; seventy-two hours I believe.

Q When was the next time that you had a temporary transfer from federal custody?

A It was in January.

Q Of this year, '97?

A Yes, sir.

Q What happened?

A I was brought from Marianna here one day and the next day I was arraigned and a lawyer appointed to me and I was returned the same day.

Q You were returned to federal prison in Marianna?

A Yes, sir.

Q And when did you come up here now this last time?

A I can't remember exactly the date. It was about two or three weeks ago. I was brought here for a hearing or a trial.

Q Do you recognize these documents that I am showing to you?

A Yes, sir. That is the presentencing, that's [222] with the federal. My presentencing, it tells the custody and when the marshal had me.

Q Do the dates that it relates there confirm the dates that we have just run over?

A Yes, sir.

Q Arrest date of the 15th, in federal custody since the 16th of June of '95?

A Yes, sir.

Q Sentencing date?

A Sentencing date, Count I conspiracy to possess with the intent to distribute methamphetamine.

Q And the date of that sentence, was that November 3, '95?

A Yes, sir.

Q Could you tell me what the second page is there?

A This was charges.

Q This is also from your presentencing report?

A Yes, sir. Which the date is wrong on the ones with the pills there. It says July 6, I was already in custody with the federal. It was June 6th, is with the eight diazepam pills.

Q Looking at item number 34, where it says [223] pending charges?

A It says pending charges. It tells when I was arrested; when the shooting was suppose[d] to have been done; and I was arrested by the Covington County Sheriff's Department with intimidating a witness.

Q So the arrest of intimidating a witness was related to these shooting charges?

A Yes, sir. I was originally arrested on intimidating a witness. And when Bill Shaw brought the witnesses to

Montgomery and all, I don't know what happened on it, but anyway I pled guilty to what I was getting guilty of which was methamphetamines.

THE COURT: When you say shooting charges are you taking this talking about this same business?

MR. CHRISTENSEN: Yes, sir.

THE COURT: You claim that the intimidating a witness charge arose out of the the [sic] same transaction as – –.

MR. CHRISTENSEN: Yes, that is what we claim, Your Honor. And we had move to admit [224] these documents as Defendant's exhibit 9.

(Defendant's exhibit 9 received into evidence)

Q Mr. Bozeman, at any time during these transfers of temporary custody, did you ever ask to be sent back to the federal authorities?

A No, sir.

MR. CHRISTENSEN: That's all I have.

MS. LOGGINS: No questions.

THE COURT: You can come down.

MR. CHRISTENSEN: That's all of the testimony we intent [sic] to put forward, Your Honor. Anything else that we have is in the nature of argument.

MS. LOGGINS: The has [sic] State has nothing.

THE COURT: Ms. Loggins, is the contention accurate – I don't know if it makes any difference or not, I

haven't researched this but so I will know what I'm researching when I'm researching, does the State agree that the present charges arose out of this same transaction as the intimidating a witness charge that was nol prossed?

[225] **MS. LOGGINS:** I don't know. I didn't know that they existed until we were in the middle of this trial.

THE COURT: Didn't know what existed?

MS. LOGGINS: That he had ever been charged with a federal offense of intimidating a witness.

THE COURT: So that was the federal charge, the intimidating a witness, or one of the federal charges?

MR. CHRISTENSEN: Yes, sir.

THE COURT: The prior county charge was what?

MS. LOGGINS: The prior county charge was a drug charge, possession of diazepam. I never knew that he had been charged with intimidating a witness.

THE COURT: Was the federal charge nol prossed?

MR. CHRISTENSEN: It was not carried forward. Anyway they dropped it.

THE DEFENDANT: No, sir. The judge up there asked the witness they brought up there, [226] Mr. Shaw, the one that come up there, where was the gun. No gun was found when I was arrested, so they just automatically – and the next news I know my lawyer was asking me, Mr. Bozeman we now – they took stood up that same

day, Judge, and said now we have two informants that Mr. Bozeman was buying and possessing methamphetamines. And I was took over there, kept in the marshal's custody. And I had until August 10th to either plead guilty or go to trial the 15th. I went forward August the 9th and pled guilty for methamphetamine.

THE COURT: I think I follow the chain of events now. At one point in some argument at some point in this thing I thought somebody said that at some point the defendant had requested to be returned to federal custody?

MS. LOGGINS: It is the defendant's Motion to Dismiss that was filed. It is on February 21, 1997, and there is a form attached.

MR. CHRISTENSEN: I believe that the form that is attached merely acknowledges that his being notified that there has been a detainer [227] placed against him.

THE COURT: Okay. You can say anything that you want to now.

MR. CHRISTENSEN: The cases that the district attorney has cited in passing, all deal with the speedy trial aspect of the IAD, which is Code of Alabama section 15-9-81. All of those cases deal with Article 3 requests by a prisoner in one jurisdiction asking that the detainers in other jurisdictions be removed.

The time frame on that has not yet run. Our claim is not based on a violation of Article 3. Rather our contention is that the district attorney has violated Article 4. Article 4-A gives the appropriate officer [of] a jurisdiction

in which an indictment, information or complaint is pending to have a prisoner brought to them. In other words, Article 3, the inmate is the one who initiates the procedure. Under Article 4 it is the prosecutor who initiates the procedure.

Most of the cases deal with Article 3, and in fact as the court pointed out to me, there are very strict requirements that the inmate [228] follow the letter of the law in holding the State to Article 3. By the same token the State needs to also obey the law here. We are a nation of laws and neither side can violate it.

Under Article 4-A the prosecutor is given the power to obtain temporary custody. Article 4-E states that if trial is not had on any indictment, information, or complaint contemplated hereby prior to the prisoner being returned to the original place of imprisonment pursuant to Article 5-E, such indictment, information or complaint shall not be of any further force or effect and the court shall enter an order dismissing the same with prejudice.

Article 5-E states that at the conclusion of a trial the inmate is to be returned to the original jurisdiction as quickly as possible.

Our contention is two-fold. First, since Mr. Bozeman had begun serving his federal sentence on November 3, 1995, by bringing him to Covington County, having temporary custody of him, the State was thereby obligated to bring [229] all pending indictments, information, complaints against him to trial before returning him. He was returned that same day to federal authorities.

Our contention is that since he had been arrested on June 15, charged with intimidating a witness, we are claiming that the shooting incidents, as indicated by his presentencing report, are the same as the charges that eventually ended being CC-97-16. That those were pending charges. The testimony that we have heard today was that there was nothing else done from that point. That those charges were just sitting there. We believe that it violates the whole purpose of the Interstate Agreement on Detainer's to allow charges to sit around and have some taken care of and then bring some others later after those have been disposed of. The case law seems clear that the purpose of IAD is to avoid that certain situation.

We are saying that when CC-95-350 was dropped, when he was put back into federal custody, probably even before it was dropped, [230] that these shooting charges should also have been dismissed. That is our first argument.

I believe that our second argument is completely unsalable [sic]. It is uncontested that Covington Covington [sic] placed a detainer on Mr. Bozeman in October of 1996. He was subsequently transferred from federal custody to the custody of the Covington County Sheriff's Department in January of 1997. He was then transferred back again to federal custody without having had trial on his indictment. He was then brought back here again on the same charges.

Article 4-D states that nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph A hereof.

The State has the burden to show that there was any waiver. They have shown absolutely nothing. The cases that have been cited in my motion state that an inmate can waive those rights but it has to be explicit. In the case of State versus Hill, the Alabama case, which I [231] cited in memorandum brief, it is very clear that the burden is on the State to show that there was a waiver. The State did not in that case; the State has not in this case.

The language of Article 4-E is mandatory. Says that the court shall enter an order dismissing the same with prejudice. We would ask the Court to abide by Article 4-E of the Interstate Agreement on Detainer's and dismiss the charges against Mr. Bozeman.

MS. LOGGINS: Your Honor, as to the first argument. The Interstate Detainer says that, and we disagree; we believe that we should be under Article 3 because the filing under which we are here, that brought us to court, the defendant's Motion to Dismiss, specifically said that he executed request pursuant to IAD to have his detainer resolved.

So his allegation is that he asked to be brought back. That he was the one that initiated it. He wanted to come back and have them resolved. So when he does and all of the paperwork indicates that that would be the [232] opinion because of form number 7, which the defense has offered into evidence, specifically states there is a form that is used when a prisoner requests to be brought back.

So we believe that we should be arguing this case under Article 4. You can't say that I requested it under Article 3 but then you didn't comply with Article 4; they are apples and oranges. A defendant can be asked to be

brought you then you jump through certain hoops, or the State can request that they be brought back and can initiate it and there is a separate form that has to be filled out for that when the State requests it. And then you jump through certain hoops for that.

As to the first argument that this should be dismissed because it is the same as the federal sentence. Well, obviously we are a different sovereignty and whether or not the feds at one time had charged him with intimidating a witness under the same circumstances, which is not proven, that is just an innuendo here. There is no evidence that it [233] was charged based on that; solely on that.

But if we assume the very worst, that these are exactly the same set of facts, but they are a federal charge and a state charge, then we are not barred from prosecution. But it says whenever a person has entered upon a term of imprisonment and it is undisputed that he had not yet entered under a term of imprisonment. He had charges pending in the federal court system, one of which was intimidating a witness, all of which were deposed [sic] of with his plea. And then he began serving his sentence in November of 1995.

So that is mute [sic]. There was no charge pending. Thereafter, when he was brought back, if there was some argument about when he was brought back on our drug charges, this case again was not pending. There was no complaint, which doesn't mean a gripe, it a means a formal application for a writ of arrest. That didn't exist. Nothing existed except an incident offense report regarding what later became case number 97-16.

[234] So the first argument that because these were as the same things as the federal sentence it should have been dismissed when he was brought back, because it existed, it didn't exist when he started serving his term in federal court. That federal charge had already been dismissed.

Now as to the second argument, we are arguing Article 4, but his petition says that he filed a request to be brought back. And specifically attached the document of November 4, 1996, as the exhibit, which does not comply with the request under Article 3, the requirements for the defendant to benefit from the requirements of the Interstate Agreement on Detainer's.

If he considers the favors he executed on 1/20/97, again to be his request, to have his case disposed of, which it appears to be. It says, complaint or request for declaratory judgment, etc, etc, can also be construed to be a request to have this disposed of. Again, it does not comply with Article 3, the Interstate [235] Agreement on Detainer's.

So although our cases revolve around – the Alabama cases that we have cited to Your Honor do stem from a later argument that the defendant wasn't tried within the time-line. It also goes to say that in every case the court talks about if you don't comply with all the requirements, and you have to prove that you have met all the requirements of the Interstate Agreement on Detainer's, then you can't benefit from the penalties imposed. And there is a penalty in Article 3 which says that you are not suppose[d] to take them back and forth.

But it is his burden to prove that he met all of the requirements to benefit from the penalties, which are horrendous; an absolute dismissal. So we had cited Your Honor to an Alabama case, Turner versus State, 584 Southern 2nd 925, where the facts of that case were very similar to the facts here. Although again, the defendant was by this time complaining that he had not . . Motion to Dismiss . . . He eventually argued the speedy trial motion in [236] that.

But specifically it just said, most of the argument is that the State's failure to comply with the Interstate Agreement on Detainer's. And in that case it says, again, that he did not fill out the proper paperwork to invoke Interstate Contact [sic] on Detainer's. The district attorney in Houston County in that case did as we did, filed forms 6 and 7, which are the exact same forms that we filed, to bring him back.

And it says that it was his responsibility to show that he had properly requested for it to be invoked. And as they cite over and over and over again, a prisoner seeking to benefit from the relief provided by the agreement must meet the burden that he has complied with the requirements of the agreement. Which the defendant has failed to do in this hearing.

So our argument is that the defendant says he asked to be brought back, he has failed to prove that he filed the necessary papers, all the documents that had been admitted into evidence that appear to be requests, do not [237] comply with the requirements of Article 3. And therefore he can't expect to benefit by having his case dismissed.

MR. CHRISTENSEN: In her testimony, the district attorney admitted that a detainer had been placed on Mr. Bozeman. She testified that subsequent to their initial attempts to get custody of him in order to try him on the charges on the basis of which the detainer was lodged, that they did receive a request under Article 3.

Even if we were under Article 3, Article 3-D, in words that are nearly identical [to] those found in Article 4, it says if trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information, or complaint, shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

It is really beside the point. She stated that they didn't have that. It is true that the [238] prisoners need to follow the statutory, procedure set forth in terms of who they notified and so on. Cases like Turner have to do with the speedy trial aspect. It is not analogous to this at all except for the fact that it states that the Interstate Agreement on Detainer's needs to be followed by the letter of the law.

Mr. Bozeman was brought here pursuant to Article 4. The district attorney initiated all of this. Prior to trial we had attempted or attempted to have a hearing at which time we discussed this and I made it clear that we were proceeding under Article 4. I believe that the original motion did cite to Article 3, but this was several weeks ago and now that the State has had notice that we were proceeding under Article 4, the State is the one that has to prove any sort of waiver and have not done so.

THE COURT: All right, I think I understand what y'all are talking about. I will take the matter under advisement and try to get out an order before sentencing next month. In [239] the meantime, there are possibilities for settling the issue and if you all want to settle it in the meantime you are certainly welcome to do that.

And I will put out an order when I figure it out.

(hearing was adjourned)

[Filed in the Circuit Court of
Covington County, Alabama]

DEFENDANT EXHIBIT #ONE

PRISONER'S JAIL RECORD

S.S.NO. 420-58-5121 **No.**_____

NAME Bozeman, Michael Herman

DATE 6-15-95 **TIME** 8:45 p.m.

ALIAS Sonny **ADDRESS** Rt. 2 Box 134A Opp, AL. 36467

AGE 50 **RACE** W **SEX** M **EYES** Haz **HAIR** Gry

HEIGHT 5-8 **WEIGHT** 151 **DATE OF BIRTH** 3-08-45

PLACE OF BIRTH Covington, Co.

SCARS OR MARKS Tatoo woman face right shoulder

ARRESTING OFFICER 2309 Anderson

ARRESTING AGENCY C.C.S.O.

OFFENSE Intimidating a witness (Federal)

TELEPHONE NO 493-7642 **STATUS** Divorced

SPOUSE OR NEXT OF KIN Michael Andrews

SENTENCE BEGINS_____

SENTENCE EXPIRES _____

HOLD FOR _____ **BEHAVIOR** _____

TIME ALLOWED-GOOD BEHAVIOR _____

HOW RELEASED Claude Cosey DEA

DATE 6-16-95 **TIME** 11:00

RELEASING OFFICER Jones/Fowler

DRAFT BOARD & CLASSIFICATION _____

ENTERING R/I PRINT _____

RELEASING R/I PRINT _____

REMARKS: There is a Federal hold – Do not release him to anyone except Tony Calderaro or Claude Cosey!!

_____

DEFENDANT EXHIBIT #TWO

PRISONER'S JAIL RECORD

S.S.No. 420-58-5121 **No.**_____

NAME Bozeman, Michael Herman

DATE 1-23-97 **TIME** 2:31 p

ALIAS Sonny **ADDRESS** Rt. 2 Box 134A Opp, AL.

AGE 50 **RACE** W **SEX** M **EYES** Haz **HAIR** Gry

HEIGHT 5'8" **WEIGHT** 149 **DATE OF BIRTH** 3-8-45

PLACE OF BIRTH Covington Co.

SCARS OR MARKS Rt. arm

ARRESTING OFFICER D. Rogers

ARRESTING AGENCY Cov. Co. S.O.

OFFENSE Shooting into a Dwelling

TELEPHONE NO _____ **STATUS** Divorced

SPOUSE OR NEXT OF KIN _____

SENTENCE BEGINS _____

SENTENCE EXPIRES _____ **HOLD FOR** _____

BEHAVIOR _____

TIME ALLOWED-GOOD BEHAVIOR _____

HOW RELEASED Back to Federal Pen **DATE** 1-24-97
TIME 12:21

RELEASING OFFICER Hoyle

DRAFT BOARD & CLASSIFICATION _____

ENTERING R/I PRINT _____

RELEASING R/I PRINT _____

REMARKS: Transported from Federal Prison for Court.

_____

DEFENDANT EXHIBIT #THREE

RELEASE AUTHORIZATION

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

Inmate Name
Bozeman, Michael

Register No.
09549-002

Institution
FCI, Marianna

Date
2-20-97

Release Date
2-26-97

Method
IAD

Detainer
[X] Yes [ ] No

Custody Will Be Taken by:
Covington Co. Sheriff's Office 200 Hillcrest Dr. Andalusia, AL 36420

Certification: I certify that this release is in accordance with applicable and controlling rules, regulations and statutory provisions. I have personally reviewed this inmate's Judgment and Commitment File, and determined that there is no information that would prevent release by the method stated above. All Judgment and Commitment Orders, U.S. Parole Commission Warrants, Notice of Actions, Good Time Documents, and all detainer information have been personally reviewed by me.

Name/Title
Michelle Clower, ISM

Signature
/s/ Michelle Clower

Date
2/26/97

Apache

Thumbprint

THIS INMATE IS NOT TO BE RELEASED WITHOUT THE WRITTEN PERMISISON OF THE WARDEN, FCI MARIANNA, FLORIDA

RELEASE ACTION

Identified by:

Released by:
[Illegible]

Funds Paid by:

Date of Release:
2/26/97

Time of Release:
11:[Illegible]

RECEIPT OF AGENT TAKING CUSTODY

I have received the above named prisoner, together with personal property and funds in the amount of
$_____

Name/Title
Horace Waylon Griggs
Deputy Sgt

Signature
/s/ Horace Waylon Griggs

Date
2-26-97

Location
Covington Co. Ala.

DEFENDANT EXHIBIT #FOUR

FEDERAL BUREAU OF PRISONS
IN-TRANSIT DATA FORM

MNAM1 535*08 * * 02-20-1997
PAGE 001 OF OO1 * * 09:40:54

NAME:	BOZEMAN, MICHAEL H
REGISTER NO:	09549-002
RACE/SEX.:	WHITE / MALE
RESIDENCE:	OPP, AL 36467
DOB (AGE):	03-08-1945 (51)
ETHNIC:	OTHER THAN HISP
RSP OF:	MNA A-DES
DESTINATION:	
ESCAPE:	NONE
VIOLENCE:	5 YRS SERIOUS
LEVEL/CUSTODY:	MEDIUM/IN
PROJ REL DATE:	01-24-1998
DETAINERS:	YES
NOTIFICATIONS:	
OFFN/CHG RMKS:	CPWID METHAMPHETAMINE 36 MONTHS (REDUCTION)
DETAINER RMKS:	DETAINER: COVINGTON CO., ANDALUSIA, AL SHERIFF OFFICE DISCHARGING A FIREARM INTO A BUILDING AND VEHICLE.

** NOTE ** CONFIDENTIAL CMC AND SEPARATEE HARDCOPY DATA IS ATTACHED

****

BOZEMAN
MICHAEL H O9549-002 09549-002 BOZEMAN
W/M/O/03-08-1945
HT/508 WT/149 HR/GY EY/HL
CUSTODY/IN [PHOTO OMITTED IN PRINTING]
LIST ANY NON-ROUTINE SECURITY NEEDS:
USE ROUTINE SECURITY MEASURES FOR AN INMATE WITH IN CUSTODY AND MEDIUM SECURITY LEVEL.

NAME OF NEAREST
RELATIVE OF INMATE: Michael Bozeman – Son

CITY AND STATE
OF RELATIVE: Opp, AL

ADDITIONAL COMMENTS:
USE CAUTION!!!
Inmate Bozeman has no priors and no escapes. He has a serious violence, shooting into a dwelling to intimidate witness, menacing, intimidation, with a weapon, harrassment, criminal trespassing and harrassing communications.
USE EXTREME CAUTION!!!!!!

****

NOTE: STATEMENT TO TRANSPORTING OFFICER: "THIS IS A CONFIDENTIAL DOCUMENT & THE SECURITY OF IT MUST BE MAINTAINED"

TRANSPORTING OFFICER:___ AGENCY:___

PREPARED BY: /s/ P. Donalson
P. DONALSON

TITLE: CASE MANAGER DATE:2/20/97

BP-S564.051 CDFRM
IAD FORM VI – EVIDENCE OF AGENT'S AUTHORITY
FEB 94
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS

Five copies. All copies, with original signatures by the Prosecutor and the Agents, should be sent to the Administrator in the RECEIVING State. After signing all copies, the Administrator should retain one copy for his file, send one copy to the Warden, Super-intendent or Director of the Institution in which the prisoner is located and return two copies to the Prosecutor who will give one to the Agents for use in establishing their authority and place one in his file. One copy should also be forwarded to the Agreement Administrator in the sending State.

Evidence of Agents' Authority
to Act for Receiving State

To: (Administrator and Address)

Federal Corrections Institute
3625 FCI Road, Marianna, FL 32446

Inmate (Name and Register No.)

Michael Herman Bozeman, a/k/a Sonny

#09549-002

is confined in (Institution and address)

Federal Corrections Institute, Marianne, FL

and will be taken into custody at said Institution on (date) February 26, 1997 for return to the County of Covington, State of Alabama for trial. In accordance with Article V(b), of said Agreement, I have designated:

Agent's Name and Department Represented

Clayne T. Bedsole
Covington County Sheriff's Office and/or

Agent's Name and Department Represented

Horace Waylon Griggs
Covington County Sheriff's Office and/or

Agent's Name and Department Represented

Donnie M. Rogers
Covington County Sheriff's Office

---

whose signatures appear below as Agents to return the prisoner.

(Agent's Signature)	(Agent's Signature)
✓ /s/ Clayton T. Bedsole	
✓ /s/ Horace Waylon Griggs	
✓ /s/ Donnie M. Rogers	

Dated February 11, 1997

Prosecuting Official's Signature
Eugenia L. Loggins
/s/ Eugenia L. Loggins

a. Title – District Attorney

b. County – Covington

c. Address – Covington County Courthouse
2nd Floor

d. City/State – Andalusia, AL

e. Telephone No – (334) 222-2513

(This form may be replicated via WP)

Continued below

DEFENDANT EXHIBIT #FIVE

IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,	*	
PLAINTIFF,	*	
VS.	*	CASE NO. SEP 95-GJ# 147
MICHAEL HERMAN BOZEMAN, A/K/A SONNY BOZEMAN,	*	
DEFENDANT.	*	

WRIT

Before me appears Eugenia L. Loggins, District Attorney for the 22nd Judicial Circuit of Alabama, Covington County, Alabama, and informs this Court that Michael Herman Bozeman, a/k/a Sonny Bozeman, federal inmate, is the defendant in the above styled cause which is scheduled for hearing for appointment of counsel and/or arraignment in the Circuit Court of Covington County, Alabama, on November 8, 1995; it is;

Therefore ORDERED and ADJUDGED by the Court that the Sheriff of Covington County, Alabama, remove the said Michael Herman Bozeman, a/k/a Sonny Bozeman, from the custody of the U.S. Marshal Middle District of Alabama no later than November 7, 1995, at the Dale County Jail, Ozark, Alabama, to the Covington County Jail, Andalusia, Alabama, it is,

Further ORDERED that upon completion of said hearing the Sheriff of Covington County, Alabama, shall

return the said Michael Herman Bozeman, a/k/a Sonny Bozeman, to the custody of the U.S. Marshal Middle District of Alabama.

DONE and ORDERED this 31st day of October, 1995.

/s/ Jerry E. Stokes
JERRY E. STOKES,
CIRCUIT JUDGE

U.S. DEPARTMENT OF JUSTICE
PROSECUTOR'S CERTIFICATION
Federal Bureau of Prisons

This is to certify that I, Eugenia L. Loggins,

Title, District Attorney, do hereby agree to the following conditions in connection with this request for custody of Michael Herman Bozeman, a/k/a Sonny Bozeman.
INMATE'S NAME

CONDITIONS

a. Agree to provide Inmate with the level of security required by Bureau of Prison's policy.

b. Agree to report to the Bureau of Prisons, any problems associated with said inmate, to include disciplinary problems, medical emergencies, suicide attempt, escape or attempted escape or any other problem arising during his/her confinement.

c. Agree not to release said inmate on bail or bond or to commit him to an institution for service of any sentence imposed in connection with our prosecution.

d. Agree to return said inmate to the federal institution from which he/she was obtained.

e. Agree to notify the local jail authority of the responsibility to return the inmate to federal custody.

As the Prosecuting Official for the state of Alabama, I Eugenia L. Loggins, Title District Attorney, hereby submit the following information in connection with my request for temporary custody of
Michael Herman Bozeman, a/k/a Sonny Bozeman,
INMATE'S NAME

09549002.
FEDERAL REGISTER NUMBER

INFORMATION

1. Name of jail facility where inmate will be confined during legal proceedings.
   Covington County Jail
2. Name and phone number of the jail administrator.
   Wilburn Mitchell, Sheriff of Covington County, Alabama
3. Scheduled date for trial. (hearing – appointment of counsel and/or arraignment)
   November 8, 1995
4. Projected date of return of the prisoner to federal custody.
   November 8 or 9, 1995.
5. Name and phone number of the state agency and the specific name of agent(s) who will transport the inmate to your jurisdiction.
   Covington County Sheriff's Office (334) 222-2513
   Lamar Fowler and/or
   Eddie Hoyle and/or Dennis [Illegible]

6. Signature and Title of Prosecutor.
/s/ Eugene L. Loggins DISTRICT ATTORNEY

Date October 30, 1995

Subscribed and sworn to before me this 30th day and month of October, 1995.

Signature of Notary Public
/s/ Jean Scott

Date October 30, 1995

DEFENDANT EXHIBIT #SIX

OFFICE OF THE DISTRICT ATTORNEY

COVINGTON COUNTY COURTHOUSE
ANDALUSIA, AL 36420
(205) 222-2513

[SEAL]

EUGENIA L. LOGGINS

DISTRICT ATTORNEY

TWENTY SECOND JUDICIAL CIRCUIT

January 8, 1997

Ms. Michelle Kent
Federal Corrections Institute
3625 FCI Road
Marianna, Florida 32446

Re: Michael Herman Bozeman
Inmate #09549-002

Dear Ms. Kent:

The above named individual, Michael Herman Bozeman, has outstanding charges for Shooting or Discharging Firearm into Occupied Building, Shooting or

Discharging Firearm into Unoccupied Building and Shooting or Discharging Firearm into Unoccupied Vehicle. Certified/exemplified copies of the indictment is enclosed herewith. In accordance with Investigator Hutcheson's recent telephone conversation with Shirleen Smith at your facility and my conversation of this date with you enclosed is the prosecutor's certification form and temporary custody form. Appointment of counsel and arraignment only is schedule for January 16, 1997. An agent with the Covington County Sheriff's Department will pick Mr. Bozeman up on January 15, 1997 and return him to your facility on January 16, 1997.

The following are court officials and addresses:

1. Roger A. Powell, Circuit Clerk, 22nd Judicial Circuit, Covington County Courthouse, Andalusia, AL 36420 (334) 222-4313

2. Jerry E. Stokes and M. Ashley McKathan, Circuit Judges, 22nd Judicial Circuit, Covington County Courthouse, 2nd Floor, Andalusia, AL 36420 (334) 222-4212 and (334) 222-7010

3. Sheriff Wilbur Mitchell and/or his agent, Covington County Courthouse, 1st Floor, Andalusia, AL 36420 (334 222-3148)

If you have any questions or need additional information, please call this office. Your cooperation in this matter is greatly appreciated.

Sincerely yours,

EUGENIA L. LOGGINS

/s/ Jean Scott
By: Jean Scott
ADMINISTRATIVE ASSISTANT

Enclosures

DEFENDANT EXHIBIT #SEVEN

OFFICE OF THE DISTRICT ATTORNEY

COVINGTON COUNTY COURTHOUSE
ANDALUSIA, AL 36420
(205) 222-2513

[SEAL]

EUGENIA L. LOGGINS

DISTRICT ATTORNEY

TWENTY SECOND JUDICIAL CIRCUIT

October 10, 1996

Mr. A. R. Steward, Inmate Systems Manager
United States Penitentiary
601 McDonough Boulevard SE
Atlanta, GA 30315

Re: Michael Herman Bozeman
Inmate #09549-002

Dear Mr. Stewart:

The above named individual, Michael Herman Bozeman, has outstanding charges for Shooting or

Discharging Firearm into Occupied Building, Shooting or Discharging Firearm into Unoccupied Building and Shooting or Discharging Firearm into Unoccupied Vehicle. Certified/exemplified copies of the indictment is enclosed herewith. In accordance with Investigator Hutcheson's recent telephone conversation with William McVay at your facility, please consider this letter as our official request to place a detainer on Mr. Bozeman on these charges. Appointment of counsel and arraignment date is December 16, 1996. Please mail us the necessary forms to fill out in order to get Mr. Bozeman here prior to that date.

The following are court officials and addresses:

1. Roger A. Powell, Circuit Clerk, 22nd Judicial Circuit, Covington County Courthouse, Andalusia, AL 36420 (334) 222-4313

2. Jerry E. Stokes and M. Ashley McKathan, Circuit Judges, 22nd Judicial Circuit, Covington County Courthouse, 2nd Floor, Andalusia, AL 36420 (334) 222-4212 and (334) 222-7010

3. Sheriff Wilbur Mitchell and/or his agent, Covington County Courthouse, 1st Floor, Andalusia, AL 36420 (334 222-3148)

If you have any questions or need additional information, please call this office. Your cooperation in this matter is greatly appreciated.

Sincerely yours,

EUGENIA L. LOGGINS

/s/ Jean Scott
By: Jean Scott
ADMINISTRATIVE ASSISTANT

Enclosures

DEFENDANT EXHIBIT #EIGHT

Attachment K, Page 1

BP-S566.051 CDFRM

IAD FORM VII – PROSECUTOR'S ACCEPTANCE OF TEMPORARY CUSTODY

February 1994
U.S. Department of Justice Federal Bureau of Prisons

IMPORTANT: This form should only be used when an offer of temporary custody has been received as the result of a prisoner's request for disposition of a detainer. If the offer has been received because another prosecutor in your state has initiated the request, use form VIII. Copies of IAD VII (BP-S566(51)) should be sent to the warden, the prisoner, the other jurisdictions in your state listed In the offer of temporary custody, and the Agreement Administrator of both the sending and receiving states.

Copies should be retained by the person filing the acceptance and the judge who signs it.

Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prisoner's Request for Disposition of a Detainer

---

To: (Warden-Superintendent-Director) – Institution and Address

Federal Corrections Institute
3625 FCI Road Marianna, FL 32446

In response to your letter of (Date) _____

__x__ and offer of temporary custody regarding (Name of Inmate) Michael Herman Bozeman, a/k/a Sonny who is presently under indictment, information or complaint in the (Jurisdiction) 22nd Judicial Circuit of Alabama of which I am the (Title of Prosecuting Officer) District Attorney please be advised that I accept temporary custody and that I propose to bring this person to trial on the indictment, information or complaint named in the offer within the time specified in Article III(a) of the Agreement on Detainers.

Comments: (If your jurisdiction is the only one named in the offer of temporary custody, use the space below to indicate when you would like to send your agents to transfer the prisoner to your jurisdiction. If the offer of temporary custody has been sent to other jurisdictions in your state, use the space below to make inquiry as to the order in which you will receive custody, or to indicate any arrangements you have already made with other jurisdictions in your state in this regard.)

Special Arrangements

Inmate will be picked up from facility on January 15, 1997 and returned on January 16, 1997.

Dated January 8, 1997

Printed Name and Signature
Eugenia L. Loggins /s/ Eugenia L. Loggins

Name/Title
District Attorney

Address
Covington County Courthouse

City/State
Andalusia, AL 36420

Telephone No.
(334) 222-2513

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV(a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request, I hereby transmit it for action in accordance with its terms and the provisions of the Agreement on Detainers.

Dated 1-8-97

Judge's Printed Name and Signature
Jerry E. Stokes /s/ Jerry E. Stokes

Court
Circuit Court
22nd Judicial Circuit of Alabama

Judicial District 22nd

Address
Covington County Courthouse

City/State
Andalusia, AL 36420

Telephone No.
(334) 222-4212

(This form may be replicated via wordprocessing)

DEFENDANT EXHIBIT #NINE

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

UNITED STATES OF AMERICA	)	**PRESENTENCE INVESTIGATION REPORT**
v.	)	
MICHAEL H. BOZEMAN	)	**Docket Number: 95-140-N**

CHANGE(S) IN PSB

Prepared for:
The Honorable W. Harold Albritton
United States District Judge

Prepared by:
Jo Ann Sellers
United States Probation Officer
Montgomery, Alabama
(334) 223-7301

Assistant U.S. Attorney
Charles F. Teschner
One Court Square, Suite 201
Post Office Box 197
Montgomery, AL 36101-0197
(334) 223-7280

Defense Counsel
Mark A. Cavanaugh
4142 Carmichael Road, Suite C
Montgomery, AL 36106
(334) 269-9101

Sentence Date: November 3, 1995

Offense: Count I: Conspiracy to Possess with Intent to Distribute Methamphetamine [21 U.S.C. § 846] – Not less than 5 years nor more than 40/ $2,000,000 fine

Release Status: Custody of U.S. Marshal since June 16, 1995

Detainer(s): None known

Codefendant(s): None

Related Case(s): None

Date Report Prepared: September 15, 1995

Date Report Revised: October 19, 1995

* * *

Other Criminal Conduct

30. On March 22, 1993, the defendant went to the home of Linda Weed, Opp, Alabama, and asked to see his ex-wife, Yvonne Bozeman. Ms. Weed advised that Ms. Bozeman was not there and the defendant began cursing and threatening her. The police were called. They asked Bozeman to leave and advised him that he would be arrested if he returned. Bozeman left at that time.

31. On December 23, 1994, the defendant called the home of Yvonne Bozeman in Opp, Alabama. He demanded to see her, which was recorded on the answering machine. Subject also threatened to come into the house and take the answering machine by force.

32. On May 29, 1995, someone cut the driver's front and back tires of Yvonne Bozeman's car which was parked in front of her residence in Opp, Alabama.

Neighbors heard a hissing sound and saw a truck, identified as that of the defendant, driving away.

33. On July 6, 1995, the defendant was arrested by Opp police officers on a Harassing Communications and Criminal Trespassing warrant. During a search of Bozeman's person, a white pill bottle containing eight blue tablets was found in Bozeman's left front pocket. The pills were tested at the Department of Forensic Sciences in Dothan, Alabama. They were identified as Diazepam, a Schedule IV controlled substance.

Pending Charge(s)

34. At 12:08 a.m. on June 15, 1995, an unknown person fired into the residence of Yvonne Bozeman, 503-B East Park Avenue, Opp, Alabama. The victim was lying in bed at the time of the offense. Several rounds penetrated her bedroom wall. This same date at 2:07 a.m., an unknown person fired into the residence of Milton Williams at 2508 84 West, Opp, Alabama. Several rounds entered the residence, including the bedroom where the victim was sleeping. Additionally, the rear window of his Chevrolet Monte Carlo and his Chevrolet pick-up truck were shot. On June 15, 1995, at 11:00 a.m., an unknown person shot into the residence of Linda Weed, 303 Monroe Street, Opp, Alabama. The two shots fired entered a front window where a bedroom is located. The defendant was subsequently arrested and charged on June 15, 1995, by the Covington County Sheriff's Department with Intimidating a Witness.

[Filed Apr. 25, 1997]

IN THE CIRCUIT COURT OF COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,

Plaintiff,

vs. **Case No.: CC-97-16**

MICHAEL HERMAN BOZEMAN,

Defendant.

RENEWAL OF DEFENDANT'S MOTION TO DISMISS

Defendant has previously moved the Court to dismiss the above-captioned case with prejudice because of the State's violation of the provisions of the Interstate Agreement on Detainers (IAD), Code of Alabama, 1975 as amended, § 15-9-81. Defendant now renews his Motion and adds the additional ground that the State has violated Article V(e) of the IAD which states that "[a]t the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state." The Court declined to rule on Defendant's Motion to Dismiss prior to trial, and the trial of the Defendant concluded on February 28, 1997. The Court has continued the sentencing hearing until ruling on the Motion to Dismiss. Fifty-six (56) days have now passed since the trial without a ruling on Defendant's Motion to Dismiss. Moreover, since judgment and sentence have not been passed on Defendant, no event which would trigger a right to appeal has occurred. Defendant has thus been

placed in limbo and is thereby prejudiced by the State's failure to return him to federal custody at the earliest practicable time.

The purpose behind the passage of IAD was to do away with the "uncertainties which obstruct programs of prisoner treatment and rehabilitation." IAD, art. I. By being held in the Covington County Jail for two months, the State is interfering with the rehabilitation which would be taking place if Defendant were in a federal penitentiary. This is clearly contrary to the spirit of IAD.

The State previously violated the anti-shuffling provisions of IAD; the State is now violating the timeliness provisions relating to the return of prisoners.

WHEREFORE, Defendant requests that the Court dismiss the above-captioned case and grant Defendant other appropriate relief.

/s/ Mark John Christensen
Mark John Christensen
P.O. Box 507
Andalusia, Alabama 36420
334/222-7118
Attorney for Defendant,
MICHAEL HERMAN BOZEMAN

[Certificate Of Service Omitted In Printing.]

[Filed May 19, 1997]

IN THE CIRCUIT COURT OF
COVINGTON COUNTY, ALABAMA

STATE OF ALABAMA,

Plaintiff,

vs.

MICHAEL HERMAN BOZEMAN,

Defendant.

Case No.: CC-97-16

[DENIED
May 21, 1997
/s/ Ashley McKathan]
Circuit Judge

MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT OR IN THE ALTERNATIVE FOR NEW TRIAL

Defendant respectfully moves the Court to enter judgment notwithstanding the verdict in the above-captioned case, or in the alternative, Defendant respectfully moves the Court to grant a new trial. As grounds therefor, Defendant would show the Court:

1. The verdict is contrary to law; and/or
2. The verdict is contrary to the weight of the evidence; and/or
3. Defendant was denied a fair and impartial trial because the State's violations of the Interstate Agreement on Detainers prevented Defendant from having adequate opportunity to consult with his Court-appointed attorney prior to the trial of this case. Defendant was only available in Covington County for one day at the time of his arraignment and Defendant was transferred to Covington County one day before his trial.

Defendant's counsel was not admitted to the Federal Penitentiary in Marianna, Florida to see Defendant when he tried to visit him there. These facts together with the controversy involved in not having Defendant's Motion to Dismiss ruled on prior to trial prejudiced Defendant's ability to put forward an adequate defense.

WHEREFORE, the Defendant respectfully requests the Court to grant this motion.

/s/ Mark John Christensen
Mark John Christensen
P.O. Box 507
Andalusia, Alabama 36420
334/222-7118
Attorney for Defendant
MICHAEL HERMAN BOZEMAN

[Certificate Of Service Omitted In Printing.]

ALABAMA JUDICIAL DATA CENTER
CASE ACTION SUMMARY
CASE: CC 99 000016.00

IN THE CIRCUIT COURT OF
COVINGTON COUNTY JUDGE: JES
STATE OF ALABAMA VS
BOZEMAN MICHAEL HERMAN

09/20/1996	TEXT	INDICTMENT
09/20/1996	TEXT	WRIT OF ARREST
01/24/1997	FILE	FILED THIS DATE: 01/24/97
01/24/1997	CHG1	CHARGE AT FILING OF: DISCHARGE GUN OCC BL
01/24/1997	CHG2	CHARGE AT FILING OF: DISCHARGE GUN UNOCC BLDG/VECH
01/24/1997	CHG3	CHARGE AT FILING OF: DISCHARGE GUN UNOCC BLDG/VECH
01/24/1997	ARRS	DEFENDANT ARRESTED ON: 01/24/97
01/24/1997	BOND	BOND SET FOR: $40000.00
01/24/1997	OFDT	OFFENSE DATE OF: 05/30/95
01/24/1997	ATY1	ATTORNEY FOR DEFENDANT: CHRISTENSEN, MARK JO
01/24/1997	TEXT	AFFIDAVIT OF SUBSTANTIAL HARDSHIP - GRANTED

1/24/97 Complaint and request for Declaratory Judgment as Motion to Dismiss

1/24/97 Defendant present with counsel and was arraigned in chambers. Pleads not guilty /s/ Jerry E. Stokes

1-28-97	Defendants request for production by state.
1-27-97	Motion for reimbursement of expenses
1-27-97	Order granting overhead expense
1-30-97	Order, that said counsel is entitled to compensation for reasonable "overhead expenses."
2-7-97	Request for Discovery
2-7-97	Answer to Motion for Discovery
2-7-97	Response to State's request for Discovery
2-21-97	Deft's motion to dismiss
2-21-97	Deft's motion to exclude inadmissible evidence
2-25-97	Memorandum brief in support of deft's motion to dismiss
2-25-97	Deft's request for additional discovery and motion to shorten time
2-28-97	Deft's Request for Discovery in Support of Post Trial Proceedings & Motion Shorten Time
3-4-97	Defendant's Request for Discovery in Support of Post-Trail [sic] Proceedings and Motion to Shorten Time
3-5-97	State's Requested Voir Dire
3-5-97	Defendant's Motion in Limine
3-5-97	Jury Strike List
3-5-97	Jury Verdicts
3-5-97	Order; after hearing the evidence the jury returned the following verdicts on February

28, 1997: "Upon Count I of the indictment, which charges the Defendant with Unlawfully Shooting or Discharging a Firearm into the Occupied Dwelling of Milton Williams, we, the Jury find the Defendant Michael Herman Bozeman: Guilty as charged."

"Upon Count II of the indictment, which charges the Defendant with Unlawfully Shooting or Discharging a Firearm into an Unoccupied Pick-up Truck of Milton Williams, we, the Jury, find the defendant Michael Herman Bozeman: Guilty as charge[d]."

"Upon Count III of the indictment, which charges the Defendant with Unlawfully Shooting or Discharging a Firearm into an Unoccupied Buick Automobile of Milton Williams, we, the Jury, find the Defendant Michael Herman Bozeman: Guilty as charge[d]."

"Upon Count IV of the indictment, which charges the Defendant with Unlawfully shooting or Discharging a Firearm into an Occupied Dwelling of Yvonne Bozeman, we, the Jury, find the Defendant Michael Herman Bozeman: Guilty as Charged."

"Upon Count V of the indictment, which charges the Defendant with Unlawfully Shooting or Discharging a Firearm into an Unoccupied Dwelling of Linda Weed, we, the Jury, find the Defendant Michael Herman Bozeman: Guilty as charged."

"Cecil R. Jones, Jr., Foreman"

Thereupon the Court continued further proceedings in the case in order to obtain a presentence report prior to judgment and sentencing. Judgment and sentencing are set for April 11, 1997, at 9:00 a.m. and it is ordered that a pre-sentence investigation be done and a report prepared. It is further Ordered and Adjudged by the Court that the results of the pre-sentence investigation be made available to the Court, the State, and the Defendant at said sentence hearing. It is further Ordered by the Court that the State furnish to the Defendant and his counsel within 10 days written notice of any prior felonies which the State expects to offer under the Habitual Offender Act. /s/ M. Ashley McKathan, Circuit Judge

3-5-97 Order; Order setting hearing on March 12, 1997 at 9:00 to hear issues raised by defendant respecting the Interstate Agreement on Detainer's Act.

4-11-97 Hearing set this day continued, to be rescheduled. /s/ Ashley McKathan, Judge.

4-25-97 Renewal of deft's motion to dismiss

5-16-97 Order; the request to have this case dismissed under the IAD is denied. Judgment and sentencing are now rescheduled for the 21st day of May 1997 at 4:30 p.m.

5-19-97 Motion for Judgment Notwithstanding the Verdict or in the Alternative for New Trial – Denied 5/21/97

05-21-97 This cause coming on for judgment and sentencing of the defendant, Michael Herman Bozeman, he having been tried by a jury and found guilty under Counts I, II, III, IV and V

of the indictment, and he being personally present and represented by his attorney, and the State being represented by the District Attorney, the Court proceeded with a sentence hearing before pronouncement of judgment and sentence.

Thereupon the Court asked defendant if he had anything to say as to why the judgment of the Court and the sentence of the law should not be imposed upon him and he made a statement. The Court then adjudged defendant guilty of Unlawfully Shooting or Discharging a Firearm into an Occupied Dwelling under Count I; guilty of Unlawfully Shooting or Discharging a Firearm into an Unoccupied Vehicle under Count II; guilty of Unlawfully Shooting or Discharging a Firearm into an Unoccupied Vehicle under Count III; guilty of Unlawfully Shooting or Discharging a Firearm into an Occupied Dwelling Under Count IV; and guilty of Unlawfully Shooting or Discharging a Firearm into an Unoccupied Dwelling under Count V. Having reviewed the report of the pre-sentence investigation the Court proceeded to sentence defendant as follows:

Pursuant to his conviction under Count I the Court sentenced him to 10 years imprisonment in the penitentiary of the State of Alabama.

Pursuant to his conviction under Count II the Court sentenced him to 10 years imprisonment in the penitentiary of the State of Alabama.

Pursuant to his conviction under Count III the Court sentenced him to 10 years

imprisonment in the penitentiary of the State of Alabama.

Pursuant to his conviction under Count IV the Court sentenced him to 10 years imprisonment in the penitentiary of the State of Alabama.

Pursuant to his conviction under Count V the Court sentenced him to 10 years imprisonment in the penitentiary of the State of Alabama.

The sentences imposed under Counts I, II, III, IV and V shall run concurrently with each other. Defendant shall receive credit for any time incarcerated hereon. However, the sentences imposed herein shall run consecutively with the sentence set in Federal Court Case No. 95-140-N, United States District Court for the Middle District of Alabama.

As an additional consequence of the state court convictions, the Court ORDERED defendant to pay the costs hereof, including the fees of his appointed attorney and $50.00 to the Alabama Crime Victim's Compensation Fund. Further ORDERED that defendant pay restitution as provided in the next paragraph.

The Court conducted a restitution hearing. Restitution is claimed on behalf of various individuals. (A) The claim for Mr. Robert Baldwin was not based on legal evidence, and an objection was raised in view of that defect respecting the claim made by Mr. Baldwin. Consequently, no restitution is ordered for said individual. *Alford v. State*, 651 So.2d 1109 (Ala. Crim. App. 1994). (B)

Defendant shall pay $495.00 restitution to the Clerk of the Court for the benefit of Mr. Raymond Killough. (C) Upon the claim for Mr. Milton Williams, damages to the house involved appears to be $751.53, as the Court believes labor can be obtained for less than the amount requested. Furniture damage is set at $923.09 based on the Court's opinion of that damage using the measure set out in *Howard v. State*, 639 So.2d 555 (Ala. Crim. App. 1993). Restitution on the Regal Automobile appears to be $1,220.08, and $541.72 is due on the Chevrolet. Total of the above amounts to be paid by defendant to the Clerk of the Court for the benefit of Mr. Milton Williams as restitution is thus $3436.42.

The Court advised defendant of his rights of appeal and he gave oral notice of appeal. Defendant remains indigent, and Honorable Mark Christensen is hereby appointed to represent him on appeal. Such certified copy of the record and reporter's transcript as defendant may be entitled to have by law shall be provided to him at State expense. The defendant is remanded to the custody of the Sheriff of Covington County, Alabama, who shall now transport him to the proper custodian.

It is further ORDERED that the Clerk shall forward a copy hereof to Honorable Mark Christensen, to the District Attorney, to the defendant, and to the Court Reporter for the 22nd Judicial Circuit of the State of Alabama.

/s/ Ashley McKathan
M. ASHLEY McKATHAN
CIRCUIT JUDGE

5-21-97	Notice of Appeal to the Court of Criminal Appeals of Alabama
5/21/97	Court of Criminal Appeal Docketing Statement
5/21/97	Reporter's Transcript Order
5/21/97	Notice of Appeal to the Alabama Court of Criminal Appeals
5-22-97	Order – Cov Co Sheriff is to return the deft to the custody of the Federal Correctional Institution of Marianna, Fl – Executed as to Michael H Bozeman on: 5-22-97
5/29/97	Transcript of Record
6/17/97	Motion to Set Appeal Bond and Order Setting Bond at $40,000.00 /s/MAM